

File No. 170208 Committee Item No. 5
 Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
 AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date May 22, 2017

Board of Supervisors Meeting Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Referral CEQA 03/07/17 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Referral PC 03/07/17 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Referral FYI 03/07/17 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | CEQA Determination 03/09/17 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Hearing Notice 05/08/17 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Response PC 05/04/17 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Econ Impact Rpt 05/12/17 |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Committee Report Memo - 05/18/17 |
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Completed by: Erica Major Date May 19, 2017
 Completed by: _____ Date _____

1 [Planning Code - Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements]

2
3 **Ordinance amending the Planning Code to revise the amount of the Inclusionary**
4 **Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives**
5 **and other Inclusionary Housing requirements; to require minimum dwelling unit mix in**
6 **all residential districts; affirming the Planning Department's determination under the**
7 **California Environmental Quality Act; making findings of public necessity,**
8 **convenience, and welfare under Planning Code Section 302; and making findings of**
9 **consistency with the General Plan, and the eight priority policies of Planning Code,**
10 **Section 101.1.**

11 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
12 **Additions to Codes** are in *single-underline italics Times New Roman font*.
13 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
14 **Board amendment additions** are in double-underlined Arial font.
15 **Board amendment deletions** are in ~~strikethrough Arial font~~.
16 **Asterisks (* * * *)** indicate the omission of unchanged Code
17 subsections or parts of tables.

18 Be it ordained by the People of the City and County of San Francisco:

19 Section 1. General Findings.

20 (a) The Planning Department has determined that the actions contemplated in this
21 ordinance comply with the California Environmental Quality Act (California Public Resources
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
23 Supervisors in File No. 170208 and is incorporated herein by reference. The Board affirms
24 this determination.

25 (b) On April 27, 2017, the Planning Commission, in Resolution No. 19903, adopted
findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
3 Board of Supervisors in File No. 170208, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
5 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
6 in Planning Commission Resolution No. 19903 and the Board incorporates such reasons
7 herein by reference. A copy of Planning Commission Resolution No. 19903 is on file with the
8 Board of Supervisors in File No. 170208.

9
10 Section 2. Findings About Inclusionary Affordable Housing Requirements.

11 (a) The purpose of this ordinance is to adopt new inclusionary or affordable housing
12 obligations following the process set forth in Section 415.10 of the Planning Code, and
13 elaborated upon in Ordinance No. 76-16, which required that the City study how to set
14 inclusionary housing obligations in San Francisco at the maximum economically feasible
15 amount in market rate housing development to create affordable housing. The inclusionary
16 affordable housing obligations set forth in this ordinance will supersede and replace any
17 previous requirements.

18 (b) The City's Inclusionary Affordable Housing Program is intended to share the need
19 to meet the demonstrated need for affordable housing in the City with private development
20 and to ensure that all housing needs are addressed as part of the City's land use controls.
21 However, setting the requirements at the right level is critical to increasing housing
22 opportunities, especially affordable opportunities. If inclusionary levels are set too low, the City
23 does not maximize new affordable housing units; if they are set too high, housing will not be
24 economically feasible for private development, and will not be built at all.

1 (c) From June 2016 from February 2017, the Controller's Office undertook a study that
2 recommended levels of inclusionary requirements that could be borne by market rate
3 development without impeding its feasibility. This process was guided by a Technical Advisory
4 Committee, and was open to the public. On February 13, 2017, the Controller's Office
5 published the Inclusionary Housing Working Group Final Report, a study that provided final
6 recommendations, which form the basis of the amendments proposed by this ordinance.

7 (d) As rents and sales prices outpace what is affordable to the typical San Francisco
8 family, the City faces a continuing shortage of affordable housing for not only very low and
9 low-income residents, but also for moderate and middle income families. To date, the majority
10 of the City's affordable housing production, including the majority of units produced through
11 the inclusionary housing program, has served primarily very low and low income households,
12 at or below 60% of area median income.

13 (e) In order to maximize the benefit of state and federal funds supporting affordable
14 housing construction, which are typically restricted to very low and low income households,
15 and to maximize the amount of affordable units constructed, the majority of the City's new
16 affordable housing production is likely to continue to focus on households at or below 60% of
17 area median income. However, new units produced through the City's Inclusionary Housing
18 Program do not typically avail themselves of state and federal funds, and therefore provide
19 the most cost-effective way to produce units for moderate and middle income families.

20 (f) The Board of Supervisors recognizes that this Inclusionary Housing Program is only
21 one small part of the City's overall strategy for providing affordable housing to very low, low,
22 moderate and middle income households. The City will continue to acquire, rehabilitate and
23 produce units through the Mayor's Office of Housing and Community Development, provide
24 rental subsidies, and provide homeownership assistance to continue to expand its reach to
25 households in need of affordable housing.

1 (g) The City will also continue to pursue innovative solutions to provide and stabilize
2 affordable housing in San Francisco, including programs such as HOME-SF which enhance
3 the existing Inclusionary Housing program by incentivizing projects that set aside 30% of on-
4 site units as permanently affordable, and 40% of units as family-friendly multiple bedroom
5 units.

6 (h) The City, through the Mayor's Office of Housing and Community Development, will
7 also continue to acquire, rehabilitate and produce units, provide rental subsidies, provide
8 homeownership assistance, and expand its reach to households in need of affordable
9 housing.

10 (i) In an effort to support a mix of both ownership project and rental projects, the City is
11 providing a direct financial contribution to project sponsors who agree to rent units for a period
12 of 30 years. The direct financial contribution is in the form of a reduction in the applicable
13 affordable housing requirement.

14 Section 3. The Planning Code is hereby amended by revising Sections 415.2, 415.3,
15 415.5, 415.6, and 415.7, and adding Section 415.11 to read as follows:

16 **SEC. 415.2. DEFINITIONS.**

17 In addition to the definitions set forth in See Section 401 of this Article, the following
18 definitions shall apply to Sections 415.1 et seq. "Owned Unit" shall mean a condominium, stock
19 cooperative, community apartment or detached single family home, and the owner or owners of an
20 owned unit must occupy the unit as their primary residence. "Rental Housing Project" shall mean a
21 housing project consisting solely of Rental Units, as defined in Section 401, that meets all of the
22 following requirements: (a) the units shall be rental housing for not less than 30 years from the
23 issuance of the certificate of occupancy pursuant to an agreement between the developer and the City,
24 in accordance with applicable State law governing rental housing, which is reviewed and approved by
25 the Planning Director and the City Attorney's Office and executed by the Planning Director; and (b)

1 the agreement described in subsection (a) shall be recorded against the property prior to issuance of
2 the certificate of occupancy.

3 ~~For purposes of Sections 415.3 et seq., "low income" households shall be defined as households~~
4 ~~whose total household income does not exceed 55% of Area Median Income for purposes of renting an~~
5 ~~affordable unit, or 80% of Area Median Income for purposes of purchasing an affordable unit, and~~
6 ~~"moderate income" and "middle income" households shall mean households whose total household~~
7 ~~income does not exceed 100% of Area Median Income for purposes of renting an affordable unit, or~~
8 ~~120% of Area Median Income for purposes of purchasing an affordable unit. The Small Sites Fund,~~
9 ~~defined in Section 415.5(f)(2), and the Small Sites Program may use Affordable Housing Fees to~~
10 ~~acquire sites and buildings consistent with the income parameters of the Programs, as periodically~~
11 ~~updated and administered by MOHCD.~~

12 **SEC. 415.3. APPLICATION.**

13 * * * *

14 (b) Any development project that has submitted a complete Environmental Evaluation
15 application prior to January 1, 2013 shall comply with the Affordable Housing Fee
16 requirements, the on-site affordable housing requirements or the off-site affordable housing
17 requirements, as applicable, in effect on January 12, 2016. ~~For development projects that have~~
18 ~~submitted a complete Environmental Evaluation application on or after January 1, 2013, the~~
19 ~~requirements set forth in Planning Code Sections 415.5, 415.6, and 415.7 shall apply to certain~~
20 ~~development projects consisting of 25 dwelling units or more during a limited period of time as follows:~~

21 (c) Any development project that has submitted a complete Environmental Evaluation
22 application after January 12, 2016, shall comply with the requirements set forth in Planning Code
23 Sections 415.5, 415.6 and 415.7, as applicable. The applicable amount of the inclusionary housing fee
24 or percentage required for the on-site or off-site alternatives shall be determined based upon the date
25 that the project sponsor has submitted a complete Environmental Evaluation application, provided that

1 a First Construction Document is issued within three years of the date the Development Application
2 procures a first discretionary development entitlement approval, which shall mean approval following
3 any administrative appeal to the relevant City board. In the event the project sponsor does not procure
4 a First Construction Document within three years of the date the development procured a first
5 development entitlement approval, including any administrative appeal to the relevant City board, the
6 development project shall comply with the inclusionary affordable housing requirements set forth in
7 Sections 415.5, 415.6, and 415.7 in effect at the time the First Construction Document is issued. Such
8 deadline shall be extended in the event of any litigation seeking to invalidate the City's approval of such
9 project, for the duration of the litigation.

10 (d) For development projects consisting of 25 dwelling units or more that have submitted a
11 complete Environmental Evaluation application on or after January 1, 2013 and prior to or on January
12 12, 2016, the requirements set forth in Planning Code Sections 415.5, 415.6, and 415.7 shall apply;
13 provided, however, that during the limited periods of times set forth in this subsection (d), the following
14 amounts of on-site affordable housing shall apply to development projects that are eligible and elect to
15 provide on-site affordable housing under Section 415.6.

16 ~~(1) If a development project is eligible and elects to provide on-site affordable housing,~~
17 ~~the development project shall provide the following amounts of on-site affordable housing. All other~~
18 ~~requirements of Planning Code Sections 415.1 et seq. shall apply.~~

19 (A~~1~~) Any development project that has submitted a complete
20 Environmental Evaluation application prior to January 1, 2014 shall provide affordable units in
21 the amount of 13% of the number of units constructed on-site.

22 (B~~2~~) Any development project that has submitted a complete
23 Environmental Evaluation application prior to January 1, 2015 shall provide affordable units in
24 the amount of 13.5% of the number of units constructed on-site.
25

1 (~~C~~) Any development project that has submitted a complete
2 Environmental Evaluation application on or prior to January 12, 2016 shall provide affordable
3 units in the amount of 14.5% of the number of units constructed on-site.

4 ~~(D) Any development project that submits an Environmental Evaluation~~
5 ~~application after January 12, 2016, shall comply with the requirements set forth in Planning Code~~
6 ~~Sections 415.5, 415.6 and 415.7, as applicable.~~

7 ~~(E) Notwithstanding the provisions set forth in subsections (b)(1)(A), (B) and~~
8 ~~(C) of this section 415.3, if a development project is located in a UMU Zoning District or in the South~~
9 ~~of Market Youth and Family Zoning District, and is eligible and elects to provide on-site units pursuant~~
10 ~~to Section 415.5(g), such development project shall comply with the on-site requirements applicable~~
11 ~~within such Zoning Districts, as they existed on January 12, 2016, plus the following additional~~
12 ~~amounts of on-site affordable units: (i) if the development project has submitted a complete~~
13 ~~Environmental Evaluation application prior to January 1, 2014, the Project Sponsor shall provide~~
14 ~~additional affordable units in the amount of 1% of the number of units constructed on-site; (ii) if the~~
15 ~~development project has submitted a complete Environmental Evaluation application prior to January~~
16 ~~1, 2015, the Project Sponsor shall provide additional affordable units in the amount of 1.5% of the~~
17 ~~number of units constructed on-site; or (iii) if the development project has submitted a complete~~
18 ~~Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor shall~~
19 ~~provide additional affordable units in the amount of 2% of the number of units constructed on-site.~~

20 ~~(F) Any development project that has submitted a complete Environmental~~
21 ~~Evaluation application on or before January 12, 2016 and seeks to utilize a density bonus under State~~
22 ~~Law shall use its best efforts to provide on-site affordable units in the amount of 25% of the number of~~
23 ~~units constructed on-site and shall consult with the Planning Department about how to achieve this~~
24 ~~amount of inclusionary affordable housing. An applicant seeking a density bonus under the provisions~~
25

1 of State Law shall prepare a report analyzing how the concessions and incentives requested are
2 necessary in order to provide the required on-site affordable housing.

3 ~~(2) If a development project pays the Affordable Housing Fee or is eligible and elects to~~
4 ~~provide off-site affordable housing, the development project shall provide the following fee amount or~~
5 ~~amounts of off-site affordable housing during the limited periods of time set forth below. All other~~
6 ~~requirements of Planning Code Sections 415.1 et seq. shall apply.~~

7 ~~(A) Any development project that has submitted a complete Environmental~~
8 ~~Evaluation application prior to January 1, 2014, shall pay a fee or provide off-site housing in an~~
9 ~~amount equivalent to 25% of the number of units constructed on-site.~~

10 ~~(B) Any development project that has submitted a complete Environmental~~
11 ~~Evaluation application prior to January 1, 2015, shall pay a fee or provide off-site housing in an~~
12 ~~amount equivalent to 27.5% of the number of units constructed on-site.~~

13 ~~(C) Any development project that has submitted a complete Environmental~~
14 ~~Evaluation application on or prior to January 12, 2016 shall pay a fee or provide off-site housing in an~~
15 ~~amount equivalent to 30% of the number of units constructed on-site.~~

16 ~~(D) Any development project that submits an Environmental Evaluation~~
17 ~~application after January 12, 2016 shall comply with the requirements set forth in Sections 415.5,~~
18 ~~415.6, and 415.7, as applicable.~~

19 ~~(E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and~~
20 ~~(C) of this Section 415.3, for development projects proposing buildings over 120 feet in height, as~~
21 ~~measured under the requirements set forth in the Planning Code, except for buildings up to 130 feet in~~
22 ~~height located both within a special use district and within a height and bulk district that allows a~~
23 ~~maximum building height of 130 feet, such development projects shall pay a fee or provide off-site~~
24 ~~housing in an amount equivalent to 33% of the number of units constructed on-site. Any buildings up to~~
25 ~~130 feet in height located both within a special use district and within a height and bulk district that~~

1 ~~allows a maximum building height of 130 feet shall comply with the provisions of subsections (b)(2)(A),~~
2 ~~(B) and (C) of this Section 415.3 during the limited periods of time set forth therein.~~

3 ~~(F) Notwithstanding the provisions set forth in subsections (d)(1), (2), and (3)~~
4 ~~(b)(2)(A), (B) and (C) of this section 415.3, if a development project is located in a UMU Zoning~~
5 ~~District or in the South of Market Youth and Family Zoning District, and pays the Affordable Housing~~
6 ~~Fee or is eligible and elects to provide off-site affordable housing pursuant to Section 415.5(g), or~~
7 ~~elects to comply with a land dedication alternative, such development project shall comply with the fee,~~
8 ~~off-site or land dedication requirements applicable within such Zoning Districts, as they existed on~~
9 ~~January 12, 2016, plus the following additional amounts for the Affordable Housing Fee or for land~~
10 ~~dedication or off-site affordable units: (i) if the development project has submitted a complete~~
11 ~~Environmental Evaluation application prior to January 1, 2014, the Project Sponsor shall pay an~~
12 ~~additional fee, or provide additional land dedication or off-site affordable units, in an amount~~
13 ~~equivalent to 5% of the number of units constructed on-site; (ii) if the development project has~~
14 ~~submitted a complete Environmental Evaluation application prior to January 1, 2015, the Project~~
15 ~~Sponsor shall pay an additional fee, or provide additional land dedication or off-site affordable units,~~
16 ~~in an amount equivalent to 7.5% of the number of units constructed on-site; or (iii) if the development~~
17 ~~project has submitted a complete Environmental Evaluation application on or prior to January 12,~~
18 ~~2016, the Project Sponsor shall pay an additional fee, or provide additional land dedication or off-site~~
19 ~~affordable units, in an amount equivalent to 10% of the number of units constructed on-site.~~
20 ~~Notwithstanding the foregoing, a development project shall not pay a fee or provide off-site units in a~~
21 ~~total amount greater than the equivalent of 33% of the number of units constructed on-site.~~

22 ~~(G) Any development project consisting of 25 dwelling units or more that has~~
23 ~~submitted a complete Environmental Evaluation application on or prior to January 12, 2016, and is~~
24 ~~eligible and elects to provide off-site affordable housing, may provide off-site affordable housing by~~
25 ~~acquiring an existing building to fulfill all or part of the requirements set forth in this Section 415.3 and~~

1 ~~in Section 415.7 with an equivalent amount of units as specified in this Section 415.3(b)(2), as reviewed~~
2 ~~and approved by the Mayor's Office of Housing and Community Development and consistent with the~~
3 ~~parameters of its Small Sites Acquisition and Rehabilitation Program, in conformance with the income~~
4 ~~limits for the Small Sites Program.~~

5 ~~(3) During the limited period of time in which the provisions of Section 415.3(b) apply,~~
6 ~~for any housing development that is located in an area with a specific affordable housing requirement~~
7 ~~set forth in an Area Plan or a Special Use District, or in any other section of the Code such as Section~~
8 ~~419, with the exception of the UMU Zoning District or in the South of Market Youth and Family Zoning~~
9 ~~District, the higher of the affordable housing requirement set forth in such Area Plan or Special Use~~
10 ~~District or in Section 415.3(b) shall apply. Any affordable housing impact fee paid pursuant to an Area~~
11 ~~Plan or Special Use District shall be counted as part of the calculation of the inclusionary housing~~
12 ~~requirements contained in Planning Code Sections 415.1 et seq.~~

13 (4~~5~~) Any development project that constructs on-site ~~or off-site~~ affordable
14 housing units as set forth in subsection (~~bd~~) of this Section 415.3 shall diligently pursue
15 completion of such units. In the event the project sponsor does not procure a building permit
16 or site permit for construction of the affordable housing units by December 7, 2018, the
17 development project shall comply with the inclusionary affordable housing requirements set
18 forth in Sections ~~415.5, 415.6, and 415.7, as applicable~~. Such deadline shall be extended in the
19 event of any litigation seeking to invalidate the City's approval of such project, for the duration
20 of the litigation.

21 (~~ee~~) The new inclusionary affordable housing requirements contained in Sections
22 415.5, 415.6, and 415.7, as well as the provisions contained in Section 415.3(~~bd~~), shall not
23 apply to ~~(1) any mixed use project that is located in a special use district for which a height limit~~
24 ~~increase has been approved by the voters prior to January 12, 2016 to satisfy the requirements of~~
25 ~~Administrative Code Section 61.5.1, or (2) any mixed use project that has entered into a development~~

1 ~~agreement or other similar binding agreement with the City on or before January 12, 2016, or (3) any~~
2 housing development project that has procured a final first discretionary development
3 entitlement approval, which shall mean approval following any administrative appeal to the
4 relevant City board, on or before January 12, 2016. The inclusionary housing requirements for
5 these projects shall be those requirements contained in the projects' existing approvals.

6 (df) The City may continue to enter into development agreements or other similar
7 binding agreements for projects that provide inclusionary affordable housing at levels that may
8 be different from the levels set forth in Sections 415.1 et seq.

9 (gf) Section 415.1 et seq., the Inclusionary Housing Program, shall not apply to:

10 (1) That portion of a housing project located on property owned by the United
11 States or any of its agencies or leased by the United States or any of its agencies, for a period
12 in excess of 50 years, with the exception of such property not used exclusively for a
13 governmental purpose;

14 (2) That portion of a housing project located on property owned by the State of
15 California or any of its agencies, with the exception of such property not used exclusively for a
16 governmental or educational purpose; or

17 (3) That portion of a housing project located on property under the jurisdiction of
18 the San Francisco Office of Community Investment and Infrastructure or the Port of San
19 Francisco where the application of Section 415.1 et seq. is prohibited by California or local
20 law.

21 (4) A 100% affordable housing project in which rents are controlled or regulated
22 by any government unit, agency or authority, excepting those unsubsidized and/or unassisted
23 units which are insured by the United States Department of Housing and Urban Development.
24 The Mayor's Office of Housing and Community Development must represent to the Planning
25 Commission or Planning Department that the project meets this requirement.

1 * * * *

2 (5) A Student Housing project that meets all of the following criteria:

3 * * * *

4 (C) The Mayor's Office of Housing and Community Development (MOHCD) is
5 authorized to monitor this program. MOHCD shall develop a monitoring form and annual
6 monitoring fee to be paid by the owner of the real property or the Post-Secondary Educational
7 Institution or Religious Institutions, as defined in Section 102 of this Code. The owner of the
8 real property and each Post-Secondary Educational Institution or Institutions shall agree to
9 submit annual documentation to MOHCD and the Planning Department, on or before
10 December 31 of each year, that addresses the following:

11 * * * *

12 (iii) The owner of the real property records a Notice of Special
13 Restrictions (NSR) against fee title to the real property on which the Student Housing is
14 located that states the following:

15 * * * *

16 d. The Post-Secondary Educational Institution is required to
17 report annually as required in Subsection (ge)(5)(C) above;

18 * * * *

19
20 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

21 ~~The fees set forth in this Section 415.5 will be reviewed when the City completes an Economic~~
22 ~~Feasibility Study.~~ Except as provided in Section 415.5(g), all development projects subject to
23 this Program shall be required to pay an Affordable Housing Fee subject to the following
24 requirements:
25

1 (a) Payment of a Fee. The fee is due and payable to the Development Fee Collection
2 Unit at DBI for deposit into the Citywide Affordable Housing Fund at the time of and in no
3 event later than issuance of the first construction document, with an option for the project
4 sponsor to defer payment to prior to issuance of the first certificate of occupancy upon
5 agreeing to pay a deferral surcharge that would be deposited into the Citywide Affordable
6 Housing Fund, in accordance with Section 107A.13.15 of the San Francisco Building Code.

7 (b) Amount of Fee. The amount of the fee which may be paid by the project sponsor
8 subject to this Program shall be determined by MOHCD utilizing the following factors:

9 (1) The number of units equivalent to the applicable off-site percentage of the
10 number of units in the principal *housing* project.

11 (A) The applicable percentage shall be 20% for housing development
12 projects consisting of 10 dwelling units or more, but less than 25 dwelling units.

13 (B) The applicable percentage for development projects consisting of 25
14 dwelling units or more shall be ~~33%~~ 28% if such units are Owned Units.

15 (C) The applicable percentage for development projects consisting of 25
16 dwelling units or more shall be 23% if such units are Rental Units in a Rental Housing Project.

17 (D) For housing developments consisting of 25 or more dwelling units, starting
18 on January 1, 2019, and no later than January 1 of each year thereafter, MOHCD shall increase the
19 applicable percentages set forth in 415.5(b)(1)(B) and 415.5(b)(1)(C) in increments of 0.5% each year,
20 until such requirements are 33% and 28%, respectively. In any year that the increase would result in a
21 fee percentage that exceeds the maximum fee percentage in the City's most recently completed Nexus
22 Analysis, the annual increase shall not be applied. MOHCD shall provide the Planning Department,
23 DBI, and the Controller with information on the adjustment to the on-site percentage so that it can be
24 included in the Planning Department's and DBI's website notice of the fee adjustments and the
25

1 Controller's Citywide Development Fee and Development Impact Requirements Report described in
2 Section 409(a).

3 ~~For the purposes of this Section 415.5, the City shall calculate the fee using the~~
4 ~~direct fractional result of the total number of units multiplied by the applicable percentage, rather than~~
5 ~~rounding up the resulting figure as required by Section 415.6(a).~~

6 (2) The affordability gap using data on ~~the~~ MOHCD's cost of construction of
7 residential housing ~~and the Maximum Purchase Price for the equivalent unit size~~. The Department
8 and MOHCD shall update the technical report from time to time as they deem appropriate in
9 order to ensure that the affordability gap remains current.

10 (3) For all housing development projects, no ~~No~~ later than January 1 of each year,
11 MOHCD shall adjust the fee based on adjustments in the cost of constructing housing. MOHCD
12 shall provide the Planning Department, DBI, and the Controller with information on the
13 adjustment to the fee so that it can be included in the Planning Department's and DBI's
14 website notice of the fee adjustments and the Controller's Citywide Development Fee and
15 Development Impact Requirements Report described in Section 409(a). MOHCD is
16 authorized to develop an appropriate methodology for indexing the fee, ~~based on adjustments in~~
17 ~~the cost of constructing housing and the Maximum Purchase Price for the equivalent unit size~~. The
18 method of indexing shall be published in the Procedures Manual.

19 ~~(4) For any housing development that is located in an area with a specific affordable~~
20 ~~housing requirement set forth in a Special Use District, or in any other section of the Code such as~~
21 ~~Section 419, the higher affordable housing requirement shall apply.~~

22 (4) MOHCD shall calculate, and the Planning Department shall impose the fee as a
23 dollar per square foot equivalency based on the total number of gross residential square feet in the
24 project. MOHCD shall publish the methodology for calculating gross residential square feet in its
25 Procedures Manual.

1 (5) The fee shall be imposed on any additional units or square footage authorized and
2 developed under California Government Code Sections 65915 et seq.

3 (c) Notice to Development Fee Collection Unit of Amount Owed. Prior to issuance of
4 the first construction document for a development project subject to Section 415.5, ~~MOH~~ the
5 Planning Department shall notify the Development Fee Collection Unit at DBI electronically or in
6 writing of its calculation of the amount of the fee owed.

7 (d) Lien Proceedings. If, for any reason, the Affordable Housing Fee imposed pursuant
8 to Section 415.5 remains unpaid following issuance of the first Certificate of Occupancy, the
9 Development Fee Collection Unit at DBI shall institute lien proceedings to make the entire
10 unpaid balance of the fee, plus interest and any deferral surcharge, a lien against all parcels
11 used for the development project in accordance with Section 408 of this Article and Section
12 107A.13.15 of the San Francisco Building Code.

13 (e) If a housing project is located in an Area Plan with an additional or specific
14 affordable housing requirements such as those set forth in a special use district or section
15 416, 417, and 419 or elsewhere in this code, the higher housing requirement shall apply. more
16 specific provisions shall apply in lieu of or in addition to those provided in this Program, as applicable.

17 (f) Use of Fees. All monies contributed pursuant to the Inclusionary Affordable Housing
18 Program shall be deposited in the Citywide Affordable Housing Fund ("the Fund"), established
19 in Administrative Code Section 10.100-49. The Mayor's Office of Housing and Community
20 Development ("MOHCD") shall use the funds collected under this Section in the following
21 manner:

22 (1) Except as provided in subsection (2) below, the funds collected under this
23 Section shall be used to:

24 (A) increase the supply of housing affordable to qualifying households
25 subject to the conditions of this Section; and

1 (B) provide assistance to low and moderate income homebuyers; and
2 (C) pay the expenses of MOHCD in connection with monitoring and
3 administering compliance with the requirements of the Program. MOHCD is authorized to use
4 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under
5 Section 415.9(e) and to update the affordable housing fee amounts as described above in
6 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated
7 through the annual budget process or supplemental appropriation for MOHCD.

8 (2) "Small Sites Funds."

9 (A) Designation of Funds. MOHCD shall designate and separately
10 account for 10% percent of all fees that it receives under Section 415.1et seq. that are
11 deposited into the Citywide Affordable Housing Fund, established in Administrative Code
12 Section 10.100-49, excluding fees that are geographically targeted such as those referred to
13 in Sections 415.5(b)(1) and 827(b)(1), to support acquisition and rehabilitation of Small Sites
14 ("Small Sites Funds"). MOHCD shall continue to divert 10% ~~percent~~ of all fees for this purpose
15 until the Small Sites Funds reach a total of \$15 million at which point, MOHCD will stop
16 designating funds for this purpose. At such time as designated Small Sites Funds are
17 expended and dip below \$15 million, MOHCD shall start designating funds again for this
18 purpose, such that at no time the Small Sites Funds shall exceed \$15 million. When the total
19 amount of fees paid to the City under Section 415.1et seq. totals less than \$10 million over
20 the preceding 12 month period, MOHCD is authorized to temporarily divert funds from the
21 Small Sites Fund for other purposes. MOHCD must keep track of the diverted funds, however,
22 such that when the amount of fees paid to the City under Section 415.1et seq. meets or
23 exceeds \$10 million over the preceding 12 month period, MOHCD shall commit all of the
24 previously diverted funds and 10% ~~percent~~ of any new funds, subject to the cap above, to the
25 Small Sites Fund.

1 (B) Use of Small Sites Funds. The funds shall be used exclusively to
2 acquire or rehabilitate "Small Sites" defined as properties consisting of 2-25 units. Units
3 supported by monies from the fund shall be designated as housing affordable to qualified
4 households consistent with the income qualifications of the Small Sites Acquisition and Rehabilitation
5 Program, as periodically updated and administered by MOHCD, as set forth in Section 415.2 for no
6 less than 55 years. Properties supported by the Small Sites Funds must be:

7 (i) rental properties that will be maintained as rental properties;
8 (ii) vacant properties that were formerly rental properties as long
9 as those properties have been vacant for a minimum of two years prior to the effective date of
10 this legislation;

11 (iii) properties that have been the subject of foreclosure; or
12 (iv) a Limited Equity Housing Cooperative as defined in
13 Subdivision Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity
14 modeled as a Community Land Trust.

15 (C) Initial Funds. If, within 18 months from April 23, 2009, MOHCD
16 dedicates an initial one-time contribution of other eligible funds to be used initially as Small
17 Sites Funds, MOHCD may use the equivalent amount of Small Sites Funds received from
18 fees for other purposes permitted by the Citywide Affordable Housing Fund until the amount of
19 the initial one-time contribution is reached.

20 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a
21 report to the Board of Supervisors regarding the amount of Small Sites Funds received from
22 fees under this legislation, and a report of how those funds were used.

23 (E) Intent. In establishing guidelines for Small Sites Funds, the Board of
24 Supervisors does not intend to preclude MOHCD from expending other eligible sources of
25

1 funding on Small Sites as described in this Section, or from allocating or expending more than
2 \$15 million of other eligible funds on Small Sites.

3 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD
4 requires the project sponsor or its successor in interest to give preference as provided in
5 Administrative Code Chapter 47.

6 (g) **Alternatives to Payment of Affordable Housing Fee.**

7 (1) **Eligibility:** A project sponsor must pay the Affordable Housing Fee unless it
8 qualifies for and chooses to meet the requirements of the Program through an Alternative
9 provided in this Subsection. The project sponsor may choose one of the following
10 Alternatives:

11 (A) **Alternative #1: On-Site Units.** Project sponsors may elect to
12 construct units affordable to qualifying households on-site of the principal project pursuant to
13 the requirements of Section 415.6.

14 (B) **Alternative #2: Off-Site Units.** Project sponsors may elect to
15 construct units affordable to qualifying households at an alternative site within the City and
16 County of San Francisco pursuant to the requirements of Section 415.7.

17 (C) **Alternative #3: Small Sites.** Qualifying project sponsors may elect
18 to fund buildings as set forth in Section 415.7-1.

19 (D) **Alternative #4: Combination.** Project sponsors may elect any
20 combination of payment of the Affordable Housing Fee as provided in Section 415.5,
21 construction of on-site units as provided in Section 415.6, or construction of off-site units as
22 provided in Section 415.7, provided that the project applicant constructs or pays the fee at the
23 appropriate percentage or fee level required for that option. Projects providing on-site units
24 under Section 415.6 and that qualify for and receive additional density under California Government
25

1 Code Section 65915 et seq. shall use Alternative #4 to pay the Affordable Housing Fee on any
2 additional square footage authorized under Section 65915.

3 (2) **Qualifications:** If a project sponsor wishes to comply with the Program
4 through one of the Alternatives described in subsections (g)(1) rather than pay the Affordable
5 Housing Fee, they must demonstrate that they qualify for the Alternative to the satisfaction of
6 the Department and MOHCD. A project sponsor may qualify for an Alternative by the following
7 methods:

8 (i) Method #1 - Ownership Units. All affordable units provided under this
9 Program shall be sold as ownership units and will remain ownership units for the life of the
10 project. Project sponsors must submit the 'Affidavit of Compliance with the Inclusionary
11 Affordable Housing Program' to the Planning Department prior to project approval by the
12 Department or the Commission; or

13 (ii) Method #2 - Government Financial Contribution. Submit to the
14 Department a contract demonstrating that the project's on- or off-site units are not subject to
15 the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under
16 Section 1954.52(b), it has entered into an agreement with a public entity in consideration for a
17 direct financial contribution or any other form of assistance specified in California Government
18 Code Sections 65915 et seq. and it submits an Affidavit of such to the Department. All such
19 contracts entered into with the City and County of San Francisco must be reviewed and
20 approved by ~~the Mayor's Office Housing~~ MOHCD and the City Attorney's Office. All contracts
21 that involve 100% affordable housing projects in the residential portion may be executed by
22 the Mayor or the Director of ~~the Mayor's Office of Housing~~ MOHCD. Any contract that involves
23 less than 100% affordable housing in the residential portion, may be executed by either the
24 Mayor, the Director of ~~the Mayor's Office of Housing~~ MOHCD or, after review and comment by
25 ~~the Mayor's Office of Housing~~ MOHCD, the Planning Director. A Development Agreement under

1 California Government Code Sections 65864 et seq. and Chapter 56 of the *San Francisco*
2 Administrative Code entered into between a project sponsor and the City and County of San
3 Francisco may, but does not necessarily, qualify as such a contract.

4 (3) The Planning Commission or the Department may not require a
5 project sponsor to select a specific Alternative. If a project sponsor elects to meet the Program
6 requirements through one of the Alternatives described in *subsection (g)(1)*, they must choose
7 it and demonstrate that they qualify prior to any project approvals from the Planning
8 Commission or Department. The Alternative will be a condition of project approval and
9 recorded against the property in an NSR. Notwithstanding the foregoing, if a project sponsor
10 qualifies for an Alternative described in *subsection (g)(1)* and elects to construct the affordable
11 units on- or off-site, they must submit the 'Affidavit of Compliance with the Inclusionary
12 Housing Program' based on the fact that the units will be sold as ownership units. A project
13 sponsor who has elected to construct affordable ownership units on- or off-site may only elect
14 to pay the Affordable Housing Fee up to the issuance of the first construction document if the
15 project sponsor submits a new Affidavit establishing that the units will not be sold as
16 ownership units. If a project sponsor fails to choose an Alternative before project approval by
17 the Planning Commission or Planning Department or if a project becomes ineligible for an
18 Alternative, the provisions of Section 415.5 shall apply.

19 (4) If at any time, the project sponsor eliminates the on-site or off-site affordable
20 ownership-only units, then the project sponsor must immediately inform the Department and
21 ~~MOH~~ MOHCD and pay the applicable Affordable Housing Fee plus interest and any applicable
22 penalties provided for under this Code. If a project sponsor requests a modification to its
23 conditions of approval for the sole purpose of complying with this Section, the Planning
24 Commission shall be limited to considering issues related to Section 415et seq. in considering
25 the request for modification

1 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

2 ~~The requirements set forth in this Section 415.6 will be reviewed when the City completes an~~
3 ~~Economic Feasibility Study.~~ If a project sponsor is eligible and elects to provide on-site units
4 pursuant to Section 415.5(g), the development project shall meet the following requirements:

5 (a) Number of Units. The number of units constructed on-site shall be as follows:

6 (1) For any housing development project consisting of 10 dwelling units or more, but
7 less than 25 dwelling units, the ~~The~~ number of units constructed on-site shall generally be 12% of
8 all units constructed on the project site. Sales prices for ownership units shall be set such that they
9 are affordable to households earning 120% of Area Median Income. Rents for qualified rental housing
10 units shall be affordable to households earning 80% of Area Median Income. ~~for housing development~~
11 ~~projects consisting of 10 dwelling units or more, but less than 25 dwelling units. The affordable units~~
12 ~~shall be affordable to low-income households. The number of units constructed on-site shall generally~~
13 ~~be 25% of all units constructed on the project site for housing development projects consisting of 25~~
14 ~~dwelling units or more., with a minimum of 15% of the units affordable to low-income households and~~
15 ~~10% of the units affordable to low- or moderate/middle-income households. The Department shall~~
16 ~~require as a condition of Department approval of a project's building permit, or as a condition of~~
17 ~~approval of a Conditional Use Authorization or Planned Unit Development or as a condition of~~
18 ~~Department approval of a live/work project, that 12% or 25%, as applicable, of all units constructed on~~
19 ~~the project site shall be affordable to qualifying households so that a project sponsor must construct .12~~
20 ~~or .25 times, as applicable, the total number of units produced in the principal project. If the total~~
21 ~~number of units is not a whole number, the project sponsor shall round up to the nearest whole number~~
22 ~~for any portion of .5 or above.~~

23 (2) For any housing development project consisting of 25 or more Owned Units, the
24 number of affordable units constructed on-site shall generally be 20% of all units constructed on the
25 project site. Ownership housing units shall have an average affordable sales price set at 120% of Area

1 Median Income or less, with units equally distributed at 90% of Area Median Income, 120% of Area
2 Median Income and 140% of Area Median Income. MOHCD shall set forth in the Procedures Manual
3 the administration of ownership units at these affordability levels and the process for determining
4 applicant eligibility. MOHCD may also reduce the Area Median Income range required to maintain
5 pricing that is below-market in that neighborhood or at the request of the project sponsor.

6 (3) For any Rental Housing Project consisting of 25 or more Rental Units, the number
7 of affordable units constructed on-site shall generally be 18% of all units constructed on the project
8 site. Qualified rental housing units shall have an average affordable rent set at 80% or less of Area
9 Median Income, with units equally distributed among households earning 55% of Area Median Income,
10 80% of Area Median Income, and 110% of Area Median Income. MOHCD shall set forth in the
11 Procedures Manual the administration of rental units at these affordability levels and the process for
12 determining applicant eligibility. MOHCD may also reduce the Area Median Income range in order to
13 maintain pricing that is below market in that neighborhood or at the request of the project sponsor.

14 (4) Starting on January 1, 2019, and no later than January 1 of each year thereafter,
15 MOHCD shall increase the on-site requirements set forth in Sections 415.6(a)(2) and 415.6(a)(3) by
16 increments of 0.5% each year, until such requirements are 25% and 23%, respectively. MOHCD shall
17 provide the Planning Department, DBI, and the Controller with information on the adjustment to the
18 on-site percentage so that it can be included in the Planning Department's and DBI's website notice of
19 the fee adjustments and the Controller's Citywide Development Fee and Development Impact
20 Requirements Report described in Section 409(a).

21 (5) The Department shall require as a condition of Department approval of a project's
22 building permit, or as a condition of approval of a Conditional Use Authorization or Planned Unit
23 Development or as a condition of Department approval of a live/work project, that 12%, 18%, or 20%,
24 as applicable, or such current percentage that has been adjusted annually by MOHCD, of all units
25 constructed on the project site shall be affordable to qualifying households so that a project sponsor

1 must construct .12, .18, or .20 times, or such current number as adjusted annually by MOHCD as
2 applicable, the total number of units produced in the principal project. If the total number of units is
3 not a whole number, the project sponsor shall round up to the nearest whole number for any portion of
4 .5 or above.

5 (26) Specific Geographic Areas. For any housing development that is located in
6 an area with a specific affordable housing requirement set forth in a Special Use District or in
7 any other section of the Code such as Section 419, the higher housing requirement shall
8 apply.

9 ~~(3)~~ (7) If the principal project has resulted in demolition, conversion, or removal
10 of affordable housing units renting or selling to households at income levels and/or for a rental
11 rate or sales price below corresponding income thresholds for units affordable to low income
12 households, the Commission or the Department shall require that the project sponsor replace
13 the number of affordable units removed with units of a comparable number of bedrooms or
14 provide that ~~25%~~ 20% of all units constructed as part of the new project shall have sales prices
15 as set forth in 415.6(a)(2) for ownership projects, or rents as set forth in 415.6(a)(3) for rental projects.
16 ~~be affordable to low income or moderate/middle income households,~~ whichever is greater.

17 (b) Any On-site units provided through this Section 415.6 may be used to qualify for a density
18 bonus under California Government Code Section 65915, any ordinance implementing Government
19 Code Section 65915, or one of the Affordable Housing Bonus Programs currently proposed in an
20 ordinance in Board of Supervisors File No. 150969 or its equivalent if such ordinance is adopted.

21 (c) In the event the project sponsor is eligible for and elects to receive additional density under
22 California Government Code Section 65915, the Sponsor shall pay the Affordable Housing Fee on any
23 additional units or square footage authorized under that section in accordance with the provisions in
24 Section 415.5(g)(1)(D).

1 (*bd*) Timing of Construction. On-site affordable housing required by this Section 415.6
2 shall be constructed, completed, ready for occupancy, and marketed no later than the market
3 rate units in the principal project.

4 (*ee*) Type of Housing. All on-site units constructed under this Section 415.6 shall be
5 provided as ownership units unless the project sponsor meets the eligibility requirement of
6 Section 415.5(g). ~~All on-site units must be affordable to low income households.~~ In general,
7 affordable units constructed under this Section 415.6 shall be comparable in number of
8 bedrooms, exterior appearance and overall quality of construction to market rate units in the
9 principal project. A Notice of Special Restrictions shall be recorded prior to issuance of the
10 first construction document and shall specify the number, location and sizes for all affordable
11 units required under this subsection ~~(e)~~(*ee*). The affordable units shall be evenly distributed
12 throughout the building. For buildings over 120 feet in height, as measured under the
13 requirements set forth in the Planning Code, the affordable units may be distributed
14 throughout the lower 2/3 of the building, as measured by the number of floors. The interior
15 features in affordable units should be generally the same as those of the market rate units in
16 the principal project, but need not be the same make, model or type of such item as long as
17 they are of good and new quality and are consistent with then-current standards for new
18 housing. The square footage of affordable units does not need to be the same as or
19 equivalent to that in market rate units in the principal project, so long as it is consistent with
20 then-current standards for new housing. The affordable units are not required to be the same
21 size as the market rate units, and may be 90% of the average size of the specific unit type.
22 For buildings over 120 feet in height, as measured under the requirements set forth in the
23 Planning Code, the average size of the unit type may be calculated for the lower 2/3 of the
24 building, as measured by the number of floors. Where applicable, parking shall be offered to
25 the affordable units subject to the terms and conditions of the Department's policy on

1 unbundled parking for affordable housing units as specified in the Procedures Manual and
2 amended from time to time. ~~On site affordable units shall be ownership units unless the project~~
3 ~~applicant meets the eligibility requirement of Section 415.5(9).~~

4 (d)(1) Marketing the Units. The Mayor's Office of Housing and Community Development
5 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable
6 units under this Section 415.6. In general, the marketing requirements and procedures shall be
7 contained in the Procedures Manual as amended from time to time and shall apply to the
8 affordable units in the project. MOHCD may develop occupancy standards for units of
9 different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of
10 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers
11 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a
12 list of minimum qualifications for marketing firms that market affordable units under Section
13 ~~415.6~~ ~~415.5~~ et seq., referred to in the Procedures Manual as Below Market Rate (BMR units).
14 No developer marketing units under the Program shall be able to market affordable units
15 except through a firm meeting all of the minimum qualifications. The Notice of Special
16 Restrictions or conditions of approval shall specify that the marketing requirements and
17 procedures contained in the Procedures Manual as amended from time to time, shall apply to
18 the affordable units in the project.

19 (1) Lottery. At the initial offering of affordable units in a housing project
20 and when ownership units become available for re-sale in any housing project subject to this
21 Program after the initial offering, MOHCD must require the use of a public lottery approved by
22 MOHCD to select purchasers or tenants.

23 (2) Preferences. MOHCD shall create a lottery system that gives
24 preference according to the provisions of Administrative Code Chapter 47. MOHCD shall
25 propose policies and procedures for implementing these preferences to the Planning

1 Commission for inclusion as an addendum to ~~in~~ the Procedures Manual. Otherwise, it is the
2 policy of the City to treat all households equally in allocating affordable units under this
3 Program.

4 ~~(e)~~ (g) Individual affordable units constructed under Section 415.6 as part of an on-site
5 project shall not have received development subsidies from any Federal, State or local
6 program established for the purpose of providing affordable housing, and shall not be counted
7 to satisfy any affordable housing requirement. Other units in the same on-site project may
8 have received such subsidies. In addition, subsidies may be used, only with the express
9 written permission by MOHCD, to deepen the affordability of an affordable unit beyond the
10 level of affordability required by this Program.

11 ~~(f)~~ (h) Notwithstanding the provisions of Section ~~415.6(e)~~ 415.6(g) above, a project may
12 use California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4%
13 tax credits under the Tax Credit Allocation Committee (TCAC) to help fund its obligations
14 under Section 415.1 et seq~~this ordinance~~ as long as the project provides 20 percent of the units
15 as affordable to households at 50 percent of Area Median Income for on-site housing or 10%
16 of the units as affordable to households at 50% of Area Median Income, and 30% of the units as
17 affordable to households at 60% of Area Median Income for on-site housing. The income table to be
18 used for such projects when the units are priced at 50% or 60% percent of Area Median
19 Income is the income table used by MOHCD for the Inclusionary Affordable Housing Program,
20 not that used by TCAC or CDLAC. Except as provided in this subsection (h), all units provided
21 under this Section must meet all of the requirements of Section 415.1 et seq~~this ordinance~~ and
22 the Procedures Manual for on-site housing.

23 ~~(g)~~ (i) Benefits. If the project sponsor is eligible for and elects to satisfy the affordable
24 housing requirements through the production of on-site affordable housing in this Section
25 415.6, the project sponsor shall be eligible to receive a refund for only that portion of the

1 housing project which is affordable for the following fees: a Conditional Use authorization or
2 other fee required by Section 352 of this Code, if applicable; an environmental review fee
3 required by Administrative Code Section ~~31.46B~~ 31.22, if applicable; a building permit fee
4 required by Section 355 of this Code for the portion of the housing project that is affordable.
5 The project sponsor shall pay the building fee for the portion of the project that is market-rate.
6 An application for a refund must be made within six months from the issuance of the first
7 certificate of occupancy.

8 The Controller shall refund fees from any appropriated funds to the project sponsor on
9 application by the project sponsor. The application must include a copy of the Certificate of
10 Occupancy for all units affordable to a qualifying household required by the Inclusionary
11 Housing Program. It is the policy of the Board of Supervisors to appropriate money for this
12 purpose from the General Fund.

13
14 **SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.**

15 ~~The requirements set forth in this Section 415.7 will be reviewed when the City completes an~~
16 ~~Economic Feasibility Study.~~ If the project sponsor is eligible and elects pursuant to Section
17 415.5(g) to provide off-site units to satisfy the requirements of Section 415.1 et seq., the
18 project sponsor shall notify the Planning Department and the Mayor's Office of Housing and
19 Community Development ("MOHCD") of its intent as early as possible. The Planning
20 Department and MOHCD shall provide an evaluation of the project's compliance with this
21 Section 415.7 prior to approval by the Planning Commission or Planning Department. The
22 development project shall meet the following requirements:

23 (a) Number of Units: The number of units constructed off-site shall be as follows:
24
25

1 (1) For any housing development that is located in an area with a specific
2 affordable housing requirement, set forth in Section 419 or elsewhere in this Code, the higher
3 off-site housing requirement shall apply.

4 (2) For housing development projects consisting of 10 dwelling units or more
5 but less than 25 units, the number of units constructed off-site shall be 20%, so that a project
6 applicant shall construct .20 times the total number of units produced in the principal project. If
7 the total number of units is not a whole number, the project applicant shall round up to the
8 nearest whole number for any portion of .5 or above. ~~The off-site affordable units shall be~~
9 ~~affordable to low-income households. Sales prices for ownership housing units shall be affordable to~~
10 ~~households earning 120% of Area Median Income. Rents for qualified rental housing units shall be~~
11 ~~affordable to households earning 80% of Area Median Income.~~

12 (3) For ownership housing development projects consisting of 25 dwelling units
13 or more, the number of units constructed off-site shall be ~~33.28%~~ ~~with 20% of the units affordable~~
14 ~~to low income households and 13% of the units affordable to low- or moderate/middle income~~
15 ~~households~~, so that a project applicant shall construct ~~.2833~~ times the total number of units
16 produced in the Principal Project. ~~principal project~~. If the total number of units is not a whole
17 number, the project applicant shall round up to the nearest whole number for any portion of .5
18 or above. Off-site ownership units shall have an average affordable sales price set at 120% of Area
19 Median Income or less, with units equally distributed among households earning 90% of Area Median
20 Income, 120% of Area Median Income, and 140% of Area Median Income. MOHCD shall set forth in
21 the Procedures Manual the administration of sales prices at these income levels and the process for
22 determining applicant eligibility. MOHCD may also reduce the Area Median Income range required to
23 maintain pricing that is below market in that neighborhood or at the request of the project sponsor.

24 (4) For Rental Housing Projects consisting of 25 dwelling units or more, the number of
25 units constructed off-site shall be 23%, so that a project applicant shall construct .23 times the total

1 number of units produced in the Principal Project. If the total number of units is not a whole number,
2 the project applicant shall round up to the nearest whole number for any portion of .5 or above.
3 Qualified rental housing units shall have an average affordable rent set at 85% or less of Area Median
4 Income, with units equally distributed among households earning 55% of Area Median Income, 80% of
5 Area Median Income, and 120% of Area Median Income. MOHCD shall set forth in the Procedures
6 Manual the administration of rents at these affordability levels and the process for determining
7 applicant eligibility. MOHCD may also reduce the Area Median Income range required to maintain
8 pricing that is below market in that neighborhood, or at the request of the project sponsor.

9 (5) Starting on January 1, 2019, and no later than January 1 of each year thereafter,
10 MOHCD shall increase the percentages set forth in Sections 415.7(a)(3) and 415.7(a)(4) in increments
11 of 0.5% each year, to a maximum percentage of 33% for Owned Units and 28% for Rental Units. If the
12 total number of units is not a whole number, the project applicant shall round up to the nearest whole
13 number for any portion of .5 or above.

14 ~~(4) For any housing development that is located in an area with a specific affordable~~
15 ~~housing requirement set forth in a Special Use District, or in any other section of the Code such as~~
16 ~~Section 419, the higher affordable housing requirement shall apply.~~

17 (b) **Timing of Construction:** The project sponsor shall ensure that the off-site units are
18 constructed, completed, ready for occupancy, and marketed no later than the market rate
19 units in the principal project. In no case shall the Principal Project receive its first certificate of
20 occupancy until the off-site project has received its first certificate of occupancy.

21 (c) **Location of off-site housing:** The off-site units shall be located within one mile of
22 the principal project.

23 (d) **Type of Housing:** All off-site units constructed under this Section 415.7 shall be
24 provided as ownership housing for the life of the project unless the project applicant meets the
25 eligibility requirement of Section 415.5(g). Nothing in this Section shall limit a project sponsor

1 from meeting the requirements of this Section through the construction of units in a limited
2 equity or land trust form of ownership if such units otherwise meet all of the requirements for
3 off-site housing. In general, affordable units constructed or otherwise provided under this
4 Section shall be comparable in number of bedrooms, exterior appearance and overall quality
5 of construction to market rate units in the principal project. The total square footage of the off-
6 site affordable units constructed or otherwise provided under this Section shall be no less than
7 the calculation of the total square footage of the on-site market-rate units in the principal
8 project multiplied by the relevant on-site percentage requirement for the project specified in
9 this Section. The Notice of Special Restrictions or conditions of approval shall include a
10 specific number of units at specified unit sizes – including number of bedrooms and minimum
11 square footage – for affordable units. The interior features in affordable units should generally
12 be the same as those of the market rate units in the principal project but need not be the
13 same make, model, or type of such item as long as they are of new and good quality and are
14 consistent with then-current standards for new housing and so long as they are consistent
15 with the "Quality Standards for Off-Site Affordable Housing Units" found in the Procedures
16 Manual. Where applicable, parking shall be offered to the affordable units subject to the terms
17 and conditions of the Department's policy on unbundled parking for affordable housing units
18 as specified in the Procedures Manual and amended from time to time. If the residential units
19 in the principal project are live/work units which do not contain bedrooms or are other types of
20 units which do not contain bedrooms separated from the living space, the off-site units shall
21 be comparable in size according to the following equivalency calculation between live/work
22 and units with bedrooms:

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

(e) Any development project that is eligible and elects to provide off-site affordable housing may provide off-site affordable housing by acquiring an existing building to fulfill all or part of the requirements set forth in this Section 415.7, as reviewed and approved by MOHCD and consistent with the parameters of its Small Sites Acquisition and Rehabilitation Program, in conformance with the income limits for the Small Sites Program.

(ef) Marketing the Units: MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units under this Section 415.7. In general, the marketing requirements and procedures shall be contained in the Procedures Manual as amended from time to time and shall apply to the affordable units in the project. MOHCD may develop occupancy standards for units of different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other requirements. MOHCD shall develop a list of minimum qualifications for marketing firms that market affordable units under Section 415.1 *et seq.*, referred to the Procedures Manual as Below Market Rate (BMR units). No project sponsor marketing units under the Program shall be able to market BMR units except through a firm meeting all of the minimum

1 qualifications. The Notice of Special Restrictions or conditions of approval shall specify that
2 the marketing requirements and procedures contained in the Procedures Manual as amended
3 from time to time, shall apply to the affordable units in the project.

4 (1) **Lottery:** At the initial offering of affordable units in a housing project and
5 when ownership units become available for resale in any housing project subject to this
6 Program after the initial offering, MOHCD must require the use of a public lottery approved by
7 MOHCD to select purchasers or tenants.

8 (2) **Preferences:** MOHCD shall create a lottery system that gives preference
9 according to the provisions of Administrative Code Chapter 47. MOHCD shall propose policies
10 and procedures for implementing these preferences to the Planning Commission for inclusion
11 in the Procedures Manual. Otherwise, it is the policy of the City to treat all households equally
12 in allocating affordable units under this Program.

13 (fg) Individual affordable units constructed as part of a larger off-site project under *this*
14 Section 415.7 shall not receive development subsidies from any Federal, State or local
15 program established for the purpose of providing affordable housing, and shall not be counted
16 to satisfy any affordable housing requirement for the off-site development. Other units in the
17 same off-site project may receive such subsidies. In addition, subsidies may be used, only
18 with the express written permission by ~~MOH~~ MOHCD, to deepen the affordability of an
19 affordable unit beyond the level of affordability required by this Program.

20 (gh) Notwithstanding the provisions of Section 415.7(fg) above, a project may use
21 California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4%
22 credits under the Tax Credit Allocation Committee (TCAC) to help fund its obligations under
23 this ordinance as long as the project provides 25% percent of the units as affordable at 50%
24 percent of area median income for off-site housing. The income table to be used for such
25 projects when the units are priced at 50% percent of area median income is the income table

1 used by ~~MOH~~ MOHCD for the Inclusionary Housing Program, not that used by TCAC or
2 CDLAC. Except as provided in this subsection, all units provided under this Section must
3 meet all of the requirements of this ordinance and the Procedures Manual for off-site housing.

4 * * * *

5 **SEC. 415.11. Severability.**

6 If any subsection, sentence, clause, phrase, or word of this Section 415, or any application
7 thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court
8 of competent jurisdiction, such decision shall not affect the validity of the remaining portions or
9 applications of the Section. The Board of Supervisors hereby declares that it would have passed
10 Section 415 and each and every subsection, sentence, clause, phrase, and word not declared invalid or
11 unconstitutional without regard to whether any other portion of this Section 415 or application thereof
12 would be subsequently declared invalid or unconstitutional.

13
14 Section 4. The Planning Code is hereby amended by adding Section 207.7 to read as
15 follows:

16 **SEC. 207.7. REQUIRED MINIMUM DWELLING UNIT MIX.**

17 (a) Purpose. To ensure an adequate supply of family-sized units in new housing stock, new
18 residential construction must include a minimum percentage of units of at least two and three
19 bedrooms.

20 (b) Applicability.

21 (1) This Section 207.7 shall apply to housing projects consisting of 25 units or more in
22 all districts that allow residential uses, except for the RTO, RCD, NCT, DTR, and Eastern
23 Neighborhoods Mixed Use Districts.

24 (2) This Section 207.7 shall apply to all applications for building permits and/or
25 Planning Commission entitlements that propose the creation of five or more Dwelling Units.

1 (3) This Section 207.7 does not apply to buildings for which 100% of the residential
2 uses are: Group Housing, Dwelling Units that are provided at below market rates pursuant to Section
3 406(b)(1) of this Code, Single Room Occupancy (SRO) Units, Student Housing (all as defined in
4 Section 102 of this Code), or housing specifically and permanently designated for seniors or persons
5 with physical disabilities.

6 (c) Controls. In all residential districts subject to this Section 207.7, one of the following two
7 must apply:

8 (1) No less than 25% of the total number of proposed dwelling units shall contain at
9 least two bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole
10 number of dwelling units; or,

11 (2) no less than 10% of the total number of proposed dwelling units shall contain at
12 least three bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole
13 number of dwelling units.

14 (d) Modifications. These requirements may be waived or modified with Conditional Use
15 Authorization. In addition to those conditions set forth in Section 303, the Planning Commission shall
16 consider the following criteria:


17 (1) The project demonstrates a need or mission to serve unique populations, or

18 (2) The project site or existing building(s), if any, feature physical constraints that make
19 it unreasonable to fulfill these requirements.

20
21 Section 5. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.
25

1 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: 
11 AUDREY W. PEARSON
12 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements]

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

The City generally requires private developers of new market-rate housing to provide affordable housing ("Inclusionary Housing") by paying a fee to the City. The City's Inclusionary Affordable Housing Program, setting forth the fee and other requirements, are included in Planning Code Sections 415 *et seq.* A developer can also opt to comply with the Inclusionary Affordable Housing Program by providing below-market rate residential units on- site or off-site. Generally, the requirements are as follows:

1. Affordable Housing Fee. The development project pays a fee equivalent to the applicable off-site percentage of the number of units in the principal project. The fee is imposed on a per unit basis.

- For development projects consisting of 10 dwelling units or more, but less than 25 dwelling units, the percentage is 20%.
- For development projects consisting of 25 dwelling units or more, the percentage is 33%.

2. On-site Units. If a developer opts to provide affordable housing on-site, the requirements are as follows:

- For housing development projects consisting of 10 dwelling units or more, but less than 25 dwelling units, the number of affordable units constructed on-site is generally 12% of all units constructed on the project site. The units must be affordable to low-income households.
- For housing development projects consisting of 25 dwelling units or more, the number of affordable units constructed on-site is generally 25% of all units constructed on the

project site. A minimum of 15% of the units must be affordable to low-income households and 10% of the units must be affordable to low- or middle- income households.

3. Off-site Units. If a developer opts to provide affordable housing off-site, the requirements are as follows:

- For housing development projects consisting of 10 dwelling units or more but less than 25 units, the number of affordable units constructed off-site is 20% of the number of units in the principal project. The units must be affordable to low-income households.
- For housing development projects consisting of 25 dwelling units or more, the number of affordable units required to be constructed off-site is 33% of the number of units in the principal project. A minimum of 20% of the units must be affordable to low-income households and 13% affordable to low- or middle-income households.

The Planning Code includes several temporary requirements for projects that submitted environmental evaluation applications prior to January 12, 2016. For projects with completed applications after January 1, 2013, the fee and off-site requirements range from 25% to 30%; the on-site requirement from 13% to 14.5%. Units were required to be affordable to low-income households only. The requirements for projects that submitted an environmental evaluation application prior to January 1, 2013 were 17% to 20% for fee or off-site, and 12% for on-site.

If there is a higher Inclusionary Housing requirement in a specific zoning district, the higher requirement applies. The Planning Code includes specific Inclusionary Housing requirements for the UMU and SOMA Youth & Families Zoning Districts in Section 419. Planning Code section 415 contains temporary requirements for projects located in the UMU or SOMA Youth and Family zoning districts, generally 1% to 2% higher than the requirements set forth in Planning Code section 419.

The Planning Code also requires an applicant seeking a density bonus under State law to provide analysis to support any requested concessions and incentives under the State law.

The Planning Code requires the Controller to study the economic feasibility of the City's inclusionary housing requirements and produce a report in 2016 and every three years thereafter. The Board must consider the report within three months and consider legislative amendments to the City's Inclusionary Housing in-lieu fees, on-site, off-site, or other alternatives recommended by the Controller and/or the Planning Commission based on the feasibility analyses and with guidance from the City's Nexus Study, with the objective of maximizing affordable Inclusionary Housing in market rate housing production.

The Planning Code defines "low income" as affordable to households earning no more than 55% of Area Median Income ("AMI") for purposes of renting an affordable unit, or 80% of

Area Median Income for purposes of purchasing an affordable unit. The Planning Code defines “moderate income” and “middle income” households as households whose total income does not exceed 100% of Area Median Income for purposes of renting an affordable unit, or 120% of Area Median Income for purposes of purchasing an affordable unit.

Currently, there is no city-wide requirement that a residential development include dwelling units of any particular bedroom count. However, section 207.6 sets forth dwelling unit mix requirements in RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use Districts.

Amendments to Current Law

This legislation amends the Inclusionary Affordable Housing Program, Section 415 et seq, and adds Section 207.7 as follows:

1) New Inclusionary Requirements:

New inclusionary Housing requirements will apply to any development project that submits a complete environmental evaluation application on or after January 12, 2016.

Affordable Housing Fee: The development project would pay a fee equivalent to the applicable off-site percentage of the number of units in the principal project.

- For development projects consisting of 10 dwelling units or more, but less than 25 units, the percentage is 20%.
- For development projects consisting of 25 units or more, the percentage is 23% for a rental project, and 28% for an ownership project.

On-site Affordable Housing: A developer may opt to provide a percentage of dwelling units on-site. If a developer opts to provide affordable housing on-site, the requirements are as follows

- For development projects consisting of 10 dwelling units or more, but less than 25 units, the percentage is 12%. Units in a rental housing project must be affordable to households earning no more than 80% of AMI; units in an ownership project must be affordable to households earning no more than 120% of AMI.
- For development projects consisting of 25 or more rental units, the percentage is 18%. Units in rental projects must be affordable to households earning an average of 80% AMI or less, with units equally distributed among households earning 55%, 80% and 110% of AMI. MOHCD may reduce these AMI ranges to maintain pricing that is below market in a particular neighborhood or at the request of the project sponsor.

- For development projects consisting of 25 or more ownership units, the percentage is 20%. Units in ownership projects must be affordable to households earning an average of 120% AMI, with units equally distributed among households earning 90%, 120% and 140% of AMI. MOHCD may reduce these AMI ranges to maintain pricing that is below market in a particular neighborhood or at the request of the project sponsor.

Off-site Affordable Housing: If a developer opts to provide affordable housing off-site, the requirements are as follows:

- For development projects consisting of 10 dwelling units or more, but less than 25 units, the percentage is 20%. Units must be affordable to households earning up to 80% of AMI for rental projects and 120% for ownership projects.
- For rental development projects consisting of 25 units or more, the percentage is 23%. The units must be affordable to an average of 85% AMI or less, with units equally distributed among households earning 55%, 80% and 120% of AMI. These AMI levels may be reduced to maintain pricing that is below market in a particular neighborhood or at the request of the project sponsor.
- For ownership development projects consisting of 25 units or more, the percentage is 28%. The units must be affordable to an average of 120% AMI or less, with units equally distributed among households earning between 90%, 120% and 140% of AMI. These AMI levels may be reduced to maintain pricing that is below market in a particular neighborhood or at the request of the project sponsor.

Projects that provide off-site affordable housing units may acquire an existing building consistent with the parameters of MOHCD's Small Sites Acquisition and Rehabilitation Program. Previously, only projects subject to the temporary requirements could do so.

2. Temporary requirements.

The legislation retains the temporary requirements for projects with completed environmental evaluation applications submitted prior to January 1, 2013. For projects with completed environmental evaluation applications submitted between January 1, 2013 and January 1, 2016, the legislation retains the temporary on-site requirements, but eliminates the fee, off-site, UMU and SOMA Youth and Family Zone temporary requirements.

3. Definitions.

The legislation defines a "rental housing project" as a housing project consisting solely of "rental units" (defined in Planning Code Section 401), and which agrees to remain rental for no less than 30 years. The project sponsor must enter into an agreement with the City, and the agreement is recorded against the property. "Owned Units" are condominiums, stock

cooperative, community apartment or detached single family home, where the owner or owners occupy the unit as their primary residence.

The legislation eliminates the definitions of low-income and moderate/middle-income in Section 415. Any remaining reference to these terms would be found in the definitions in Section 401.

4. Other requirements.

The legislation requires MOHCD to calculate, and the Planning Department to impose the fee on a dollar per square foot equivalency based on the total number of gross residential square feet in the project.

The legislation includes an automatic yearly increase of 0.5% in the fee/off-site and on-site requirements, starting on January 1, 2019, and continuing for 10 years, so long as the increase does not exceed the nexus requirements from the City's most recent nexus analysis.

The legislation imposes the Inclusionary Housing fee on any additional units constructed pursuant to the State Density Bonus Law, California Government Code section 65915 et seq.

The legislation adds a severability clause to the Inclusionary Housing Ordinance.

The legislation adds Section 207.7 to require a dwelling unit mix of either 25% two-bedroom or 10% three-bedroom units in all new residential buildings in all zoning districts, except in those zoning districts covered by the unit mix requirements in Section 207.6 (RTO, RCD, NCT, DTR and Eastern Neighborhoods Mixed Use districts). A developer may seek a modification of this requirement through the conditional use process.

Background Information

The City published the Residential Affordable Housing Nexus Analysis in November 2016. In February 2017, the Controller completed the feasibility analysis, the Inclusionary Housing Working Group Final Report, required by Planning Code Section 415.10. The legislation responds to the conclusions in the nexus analysis and the feasibility analysis.

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Modifying Inclusionary Housing Requirements: Economic Impact Report

Office of Economic Analysis
Items #161351 and #170208
May 12, 2017

Introduction

- Two ordinances have recently been introduced at the San Francisco Board of Supervisors that would modify requirements that housing developers provide affordable housing, or a fee payment dedicated to affordable housing, as part of their project.
- These requirements, called inclusionary housing, were changed in 2016 by a City Charter Amendment, Proposition C, which also gave the Board of Supervisors the authority to modify them again in the future.
- This economic impact report was prepared based on an initial determination of the Office of Economic Analysis (OEA) that both proposed ordinances would have a material impact on the City's economy.

Economics of Inclusionary Housing

- “Affordable housing” refers to new housing whose rent, or sales price, is limited to make it affordable to households that cannot afford most new privately-produced, “market-rate” housing in the city. Because this limited price is generally lower than the cost of producing the new housing in San Francisco, affordable housing requires a subsidy to be produced.
- In inclusionary housing policy, the subsidy is paid by the market-rate housing developer, which increases their cost of development. It is often argued that developers pass these costs on to land-owners, in the form of lower bids for their land. In this way, those land-owners ultimately bear the cost of the affordable housing subsidies, not developers or market-rate housing consumers.
- However, a reduction in bids from developers can make land-owners better off with the income they already receive from the property, and discourage them from selling to developers to produce more housing. To the extent this is true, housing production would be curtailed. Rents and prices for existing housing—in which the vast majority of households of all income levels live—become higher than they otherwise would be.
- Inclusionary housing policy therefore involves a trade-off between the creation of affordable housing subsidies, for low- and moderate-income households, and the constraining of housing supply that tends to raise market-rate housing prices.

Developer Payment Options and Income Limits

- Under San Francisco's inclusionary housing policy, which apply to projects with 10 or more units, developers have at least three options to fulfill their inclusionary requirements:
 - On-site option: providing a specified number of affordable units as a part of the market-rate housing project.
 - Fee option: instead of providing on-site units, pay a fee to the Mayor's Office of Housing and Community Development (MOHCD), based on the City's cost of producing a comparable unit of housing.
 - Off-site option: providing a specified number of affordable housing units at a different location within the city.
- These requirements are expressed as a percentage: for example, a 15% on-site requirement means that 15% of the units in the project must be affordable. A 30% fee means the developer is required to pay the appropriate MOHCD fee for 30% of the market-rate units in the project.
- Inclusionary housing requirements may also differ in the maximum income that a household must have in order to qualify to rent or buy an affordable unit. These are expressed as percentages of Area Median Income (AMI).

Proposition C and the Trailing Legislation

- In 2012, voters passed a Charter Amendment which created the City's Housing Trust Fund, and established an inclusionary requirement of 12% (for the on-site option) and 20% (for the Fee and off-site options.) All inclusionary units were designated for low-income households, defined as no more than 55% of AMI for rental units, and no more than 90% for ownership units.
- In June 2016, voters passed Proposition C, which raised the inclusionary requirements for projects with 25 or more housing units. The fee and off-site options were raised from 20% to 33%, and the on-site option was raised from 12% to 25%.
- Proposition C also established that the Board of Supervisors could modify the requirements without voter approval in the future. After Proposition C was passed, in trailing legislation, the Board directed the Controller's Office to conduct a financial feasibility study to identify the maximum feasible inclusionary requirements.

Feasibility Study Findings

- During the summer and fall of 2016, the Controller's Office worked with a team of three consulting firms, and an eight-person Technical Advisory Committee, to make a series of recommendations in a final report issued in February, 2017.
- Recommendations of the feasibility study include:
 - Charging different inclusionary housing requirements for rental and owner-occupied housing, based on the finding that new rental housing generally has lower feasibility limits.
 - Establishing initial on-site inclusionary requirements in the range of 14-18% for rentals, and 17-20% for owner-occupied units, based on the finding that higher requirements would likely drive land bids to below their 2012 prices, making it unlikely that landowners would offer land for new housing.
 - Establishing initial fee options at the rate of 18-23% for rentals, and 23-28% for ownership projects, as these levels corresponded to a similar land bid as the recommended on-site ranges.
 - Gradually increase requirements at a rate of 0.5% per year, based on the finding that housing prices generally grow faster than development costs and land values, and projects should therefore be able to support higher requirements in the future.
 - The Controller's analysis was based on the 60/40 split between low and moderate income units that Proposition C established. For example, an 20% on-site ownership requirement would mean a 12% for condos up to 80% of AMI, and 8% for condos up to 120% of AMI.

Details of File #161351 (Sups. Kim / Peskin Legislation)

- File #161351, introduced by Supervisors Kim and Peskin, proposed changes to both the Proposition C requirements for projects with at least 25 units, and smaller projects that were unaffected by Proposition C.
- The changes raise the requirements in some respects, and lower them in others:
 - For projects with 10-24 units, the on-site option is maintained at 12%, but would rise by 0.75% per year, beginning in 2018. The fee option (20% for projects of that size) would not change. On-site ownership units would be affordable to households in the 80-100% AMI range, with an average at 90%, and on-site rental units would be affordable to households in the 40-80% AMI range, with an average at 60%.
 - For projects with 25 or more units, the fee option would be lowered from 33% to 30% for rental projects. Off-site requirements match the 33%/30% fee option.
 - On-site requirements for 25+ projects would be raised from 25% to 27% for owner-occupied and lowered to 24% for rentals.
 - For on-site ownership, 15% must be for households in the 80-100% AMI range, with an average of 90%, and 12% must be in the 100-140% AMI range, with an average of 120%. For on-site rentals, 15% must be for households in the 40-80% range, with an average of 60%, and 9% must be for households in the 80-120% range, with an average of 100%.
 - The legislation also directs MOHCD to recalculate the fee corresponding to different cost of producing affordable units in buildings of different sizes.

Details of #170208 (Sups. Safai / Breed/ Tang)

- File #170208, sponsored by Supervisors Safai, Breed, and Tang, also changed the requirements for 10-24 units, and the larger 25-or-more unit projects affected by Proposition C:
- For projects with 10-24 units, the legislation would leave the fee unchanged, but increase the applicable on-site and off-site income limits to an average of 80% of AMI for rentals and 120% of AMI for condos.
- For projects with 25 or more units it would:
 - Lower the fee option from 33% to 23% for rental projects and 28% for ownership projects. The fee would rise by 0.5% per year for ten years.
 - Lower and modify the onsite requirement from 25% to 18% for rental projects (for income limits between 55% and 110% of AMI, with an average of 80%), and to 20% for ownership projects (for income limits between 90% and 140% of AMI, with an average of 120%). These on-site requirements would also increase by 0.5% per year for ten years.
 - Set off-site requirements that match the 28%/23% fee option, which would also increase 0.5% per year for 10 years.

Summary of Major Points of Difference Between Current Law (Based on Proposition C) and Each Proposal

	Current Law (Prop C)	Kim/Peskin Proposal	Safai/Breed/Tang Proposal
10-24 unit projects	12% Onsite; 20% Fee	Onsite requirement increases by 0.75% per year	Income limits rise for onsite option, to 80% of AMI for rentals and 120% for ownership
Fee for 25+ unit projects	33%	Falls to 30% for rental projects	Falls to 28% for ownership and 23% for rental projects. Would increase 0.5% per year for 10 years.
Onsite for 25+ unit projects	15% for low-income; 10% for moderate-income	Rises to 27% for ownership projects (15% low-income, 12% moderate); falls to 24% for rental (15% low-income, 9% moderate)	Single tier, falls to 20% for ownership projects; 18% for rental. Would increase 0.5% per year for 10 years.
25+ unit project income limits	Low is 55% of AMI for rentals, 80% for condos; Moderate is 100% and 120%	Largely maintains Prop C levels	Raises average income limits to 80% of AMI for rentals and 120% for ownership

Economic Impact Factors

As discussed earlier, by changing the inclusionary housing requirements established by Proposition C in 2016, the proposed ordinances would affect the economy in two primary ways:

1. Changing inclusionary requirements affects the cost of developing new housing in San Francisco. On the margin, higher requirements could make some projects infeasible, and lower requirements could facilitate projects that had been marginally infeasible. Changing housing production in this way affects housing prices facing all renters and purchasers of market-rate housing in the city, at all income levels.
2. Changing inclusionary requirements would also change the number of, and/or funding for, affordable housing units. This would reduce the subsidy that low and moderate income households receive from this housing, and put upward pressure on the housing burden facing those households.

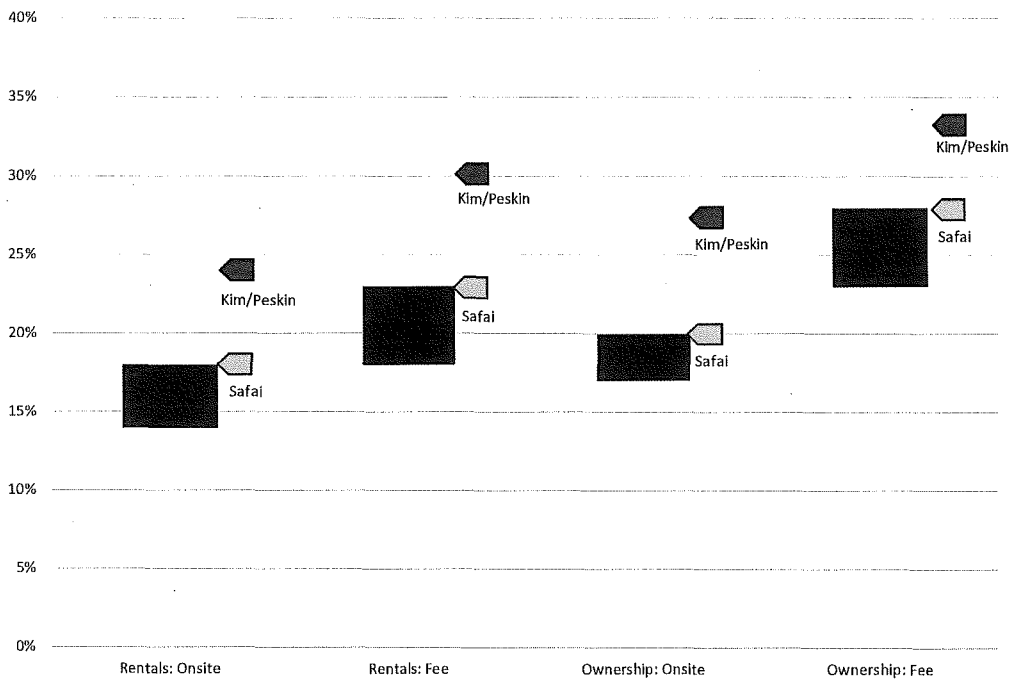
The net impact of both pieces of legislation depends on the relative magnitude of these two effects. Our estimates of them are detailed on the following pages.

Approaches to Estimating How Inclusionary Requirements Effect Feasibility and Housing Production

- During the feasibility study process, two approaches to estimating the impact of changes to the City's inclusionary requirements were developed by the consulting team, and relied upon by the Controller's Office and the Technical Advisory Committee.
- The first approach, which is more traditional in housing feasibility studies, involves using pro formas of representative projects, and testing the impact of policy changes on their financial feasibility. This approach has the advantage of using up-to-date information and a sophisticated financial model, but is weaker at estimating the citywide impact of policy changes, because it relies on data from only a few parcels and projects, which may not be representative.
- The second approach uses a statistical model that estimates the likelihood of each land parcel in the city to produce new housing, based on its land use and zoning characteristics, and the state of the housing and construction markets. This model, based on development projects during the 2000-2015 period, was developed for the OEA's economic impact report on Proposition C² and significantly refined during the feasibility study.

Pro-Forma Feasibility: How the Two Proposals Relate to Recommendations from the Controller's Feasibility Study

Feasibility Ranges from Controller's Study, and Initial Requirements in Each Proposal, Projects with 25 or More Units



The chart to the left shows the initial requirements of both proposals for rentals and ownership projects, for the on-site and fee options. Next to the arrows are the feasibility range, in dark blue, identified from the pro forma analysis conducted by consultants in the Controller's feasibility study¹.

The Safai/Breed/Tang proposal establishes initial requirements at the maximum of each of the recommended ranges, although the income limits in the Safai/Breed/Tang proposal are higher than those assumed in the Controller's study.

The Kim/Peskin requirements are higher. However, as described on the next page, pro forma prototypes that took the maximum State Density Bonus would be financially feasible under the Kim/Peskin requirements.

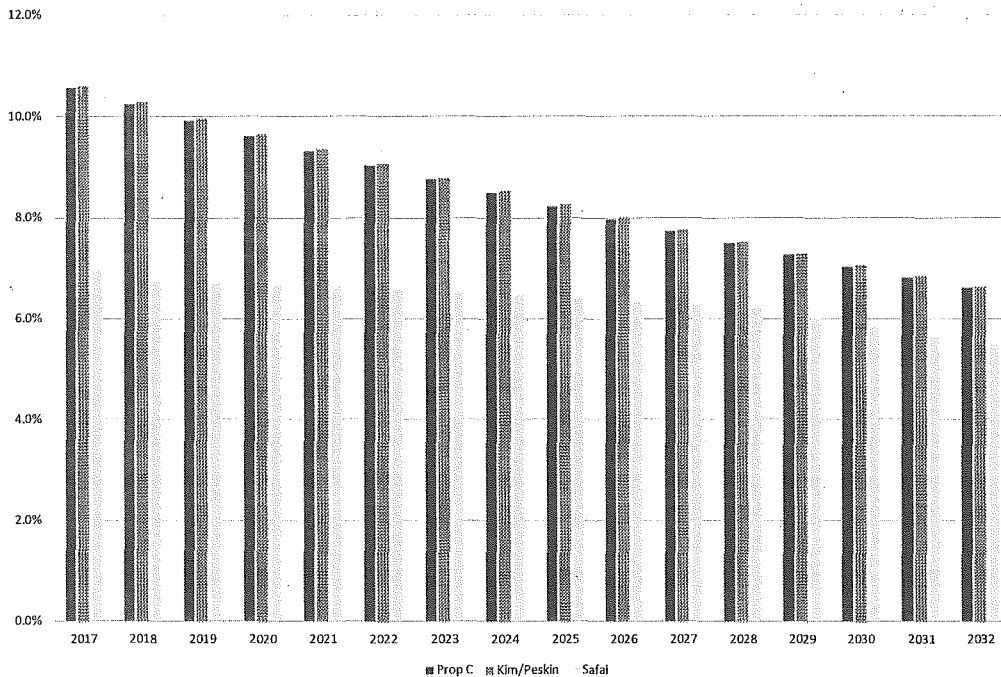
¹<http://openbook.sfgov.org/webreports/details3.aspx?id=2413>

The State Density Bonus and Feasibility Findings

- State law provides developers with an option to increase the density – and the number of units – within a project, in exchange for providing affordable housing on site. Because the State’s affordable requirements are lower than the City’s, virtually every new housing project in San Francisco that takes the onsite option could qualify for some State density bonus. Projects taking the fee option are not eligible.
- The bonus units allow projects to support a higher inclusionary requirement and remain feasible. However, the City is prohibited from requiring that any of the bonus units are affordable, and from imposing higher requirements only on those projects that take the bonus.
- For the prototype pro formas studied in the feasibility study, a bonus project providing the Kim/Peskin onsite requirements, would be roughly as feasible as a non-bonus project with the Safai/Breed/Tang requirements. However, a non-bonus project would not be feasible with the Kim/Peskin requirements.
- Use of the bonus has, to date, been limited in San Francisco, and the study reached no conclusions about how widely it would be used in the future.
- The Safai/Breed/Tang proposal requires a bonus project to pay the fee option on the bonus units, so a bonus project would contribute more to affordable housing than a non-bonus project.

The Statistical Model Uses the Cost of the Proposed Policies to Estimate Their Effect on Housing Production

Estimated Cost of Onsite Inclusionary Housing Requirements for Projects with 25+ Units, as a Percentage of Sales Price, 2017-2032



Controller's Office • Office of Economic Analysis
City and County of San Francisco

The statistical model created during the feasibility study estimates housing production as a function of the cost of the inclusionary policy to developers. Policy cost is expressed as a percentage of the sales price of a new market-rate unit (condo or apartment).

Estimating cost is challenging because of the range of options open to developers, and in this report, we focus on the onsite option. The chart to the left illustrates the estimated cost of the onsite alternative, assuming 65% of future units are condominiums and 35% are apartments.

Costs are projected fall over time, because housing prices generally rise faster the policy costs. The Kim/Peskin proposal closely tracks Proposition C; the Safai/Breed/Tang proposal is less costly to developers, but its cost does not decline as rapidly, because of its rising onsite requirements.

Projecting the Impacts on Housing Production, Prices, and Affordable Housing Units and Subsidy Value

- Using the statistical model of development developed during the feasibility study³, the OEA simulated the impact of the two proposals, and Proposition C, on overall housing production in the city over the 2017-2032 period.
- To estimate affordable housing production, we used the on-site option for both proposals: multiplying the units produced by the applicable on-site percentages. While developers do utilize other options, their costs and benefits are harder to estimate.
- This approach is only reasonable when onsite and fee options are comparable to each other. Because of this, we are not analyzing 10-24 unit projects, as under the Kim/Peskin proposal, their onsite requirements increase over time, while their fee option does not.
- Projecting future housing development is subject to many uncertainties. We project housing production under a set of different assumptions about housing price and construction cost growth, the split between ownership and rental units, and varying uses of the state density bonus by future housing projects.
- For each of these scenarios, housing production, for projects with 25 or more units, was estimated under current Proposition C policies, and each of the two proposals.
- On the next page, each proposal's outcomes are presented as a range of percentage differences from Proposition C, because results are different under different scenarios.

Estimated Impacts of the Two Proposals on Total Housing Production, and Affordable Housing Production

- The model allows us to estimate the total number of units produced (relative to Proposition C), the impact of that difference on citywide housing prices, and the annual spending of market-rate housing consumers.
- We also estimated the number of affordable units, as discussed on page 14. The average subsidy per unit is the difference between a household’s annual cost in an affordable unit, and their cost in a new market-rate unit. The number of affordable units, multiplied by the average subsidy per affordable unit, yields the total annual value of the subsidy.

Outcome	Kim/Peskin Proposal vs. Prop C	Safai/Breed/Tang Proposal vs. Prop C
Total number of housing units produced	0.1% less to 0.2% more	4.7% to 7.1% more
Citywide housing prices	0.0%	0.1% to 0.8% less
Annual spending on housing	\$0 to \$2 M more	\$15M to \$98M less
Number of Affordable Housing units	2% to 4% more	5% to 8% less
Average subsidy per affordable unit	1% to 2% less	11% to 12% less
Total annual value of subsidy	\$1 M to \$4 M more	\$10M to \$50M less

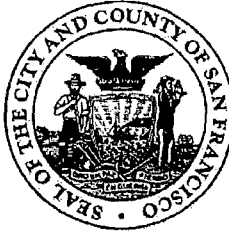
Net Impacts and Conclusions

- In every scenario, the Safai/Breed/Tang proposal, which reduces inclusionary requirements, leads to the production of more housing relative to Proposition C, and lower prices for existing housing, at the cost of reducing the number of affordable units, and the value of subsidy generated they generate.
- Under the Safai/Breed/Tang proposal, the gain to market-rate housing consumers is greater than the loss of affordable housing subsidy. For every dollar of subsidy lost, market-rate housing consumers gain between \$1.45 and \$2.53 in price savings.
- The Kim/Peskin proposal creates outcomes that closely track to Proposition C. Different outcomes between Proposition C and the Kim/Peskin proposal result from different assumptions about the future split between condominiums and apartments.

Staff Contacts

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BOARD of SUPERVISORS



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March 7, 2017

File No. 170208

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On February 28, 2017, Supervisor Safai introduced the following proposed legislation:

File No. 170208

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

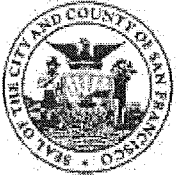
for By: *Alisa Somera*
Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15060(c) and 15378 because it does not result in a physical change in the environment.

-Jeanie Poling 3/9/17



SAN FRANCISCO PLANNING DEPARTMENT

May 4, 2017

Ms. Angela Calvillo, Clerk
Honorable Supervisors Kim, Safai, Peskin, Breed, and Tang
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
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**Re: Transmittal of Planning Department Case Number 2017-001061PCA
Amendments to Section 415, Inclusionary Affordable Housing Program
Board File No: 161351 Inclusionary Affordable Housing Fee and Requirements;
170208 Inclusionary Affordable Housing Fee and Dwelling Unit
Mix Requirements**

Planning Commission Recommendation: Approval with Modifications

Dear Ms. Calvillo and Supervisors Kim, Safai, Peskin, Breed, and Tang,

On April 27, 2017, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinances that would amend Planning Code Section 415, introduced by Supervisors Kim and Peskin, and Supervisors Safai, Breed, and Tang, respectively. At the hearing the Planning Commission recommended approval with modifications.

Specifically, the Planning Commission recommended that the Board of Supervisors adopt final legislation as described. The adopted resolution, including detailed recommendations and the associated Executive Summary, are attached.

A. APPLICATION

- a. No amendments are recommended.

B. INCLUSIONARY REQUIREMENTS

- a. **Include a condominium conversion provision** to specify that projects converting to ownership projects must pay a **conversion fee** equivalent to the difference between the fee requirement for ownership projects in effect at the time of the conversion and the requirement the project satisfied at the time of entitlement.
Include provisions of Board File No. 161351 ("Proposal A"), as modified above.
- b. Establish fee, on-site, and off-site requirements for Larger Projects (25 or more units) that are within the range of "maximum economically feasible" requirements

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recommended in the Controller's Study.

Include provisions of Board File No. 170208 ("Proposal B") without modification, as follows:

For Rental Projects:

- i. Fee or Off-Site Alternative: equivalent of 23% of project units
- ii. On-Site Alternative: 18% of project units

For Ownership Projects:

- i. Fee or Off-Site Alternative: equivalent of 28% of project units
- ii. On-Site Alternative: 20% of project units

C. SCHEDULE OF ANNUAL INCREASES TO REQUIREMENTS

- a. Establish an explicit maximum requirement at which the schedule of increases would terminate, and that rate should be below the maximum requirement legally supported by the Nexus Study.
Include provisions of Board File No. 170208 ("Proposal B") with modifications to clarify that this provision also applies to both Smaller and Larger projects, as follows:

For Rental Projects:

- i. Fee or Off-Site Alternative: equivalent of 28% of project units
- ii. On-Site Alternative: 23% of project units

For Ownership Projects:

- i. Fee or Off-Site Alternative: equivalent of 33% of project units
- ii. On-Site Alternative: 25% of project units

- b. Establish that requirement rates be increased by 1.0 percentage point every two years for both Smaller and Large projects.
Include provisions of Board File No. 170208 ("Proposal B"), as modified above.
- c. The schedule of increases should commence no fewer than 24 months following the effective date of final ordinance for both Smaller and Larger projects.
Under either ordinance, final legislation should be amended accordingly.
- d. Establish a "sunset" provision that is consistent with current practices for the determination of inclusionary requirements and Planning Department procedures, specifically that the requirement be established at the date of Environmental Evaluation Application and be reset if the project has not received a first construction document within three years of the project's first entitlement approval.
Include provisions of Board File No. 170208 ("Proposal B") with modifications to clarify that this provision applies to both Smaller and Larger projects.

D. AFFORDABLE HOUSING FEE

- a. Apply the fee on a per gross square foot basis so that the fee is assessed proportionally to the total area of the project.
Include provisions of Board File No. 170208 ("Proposal B") without modification.
- b. Revise language to allow MOHCD to calculate the fee to match the actual cost to the City to construct below market rate units, without factoring the maximum sale price of the equivalent inclusionary unit.
Include provisions of Board File No. 170208 ("Proposal B") without modification.

E. INCOME LEVELS

- a. Establish affordability requirements that clearly apply to the maximum rent or maximum sale price of the inclusionary unit, and not to the income level of the household placed in that unit.
Under either ordinance, final legislation should be amended accordingly.
- b. Designate inclusionary units at three discrete affordability levels for Larger projects to better serve households with incomes between the current low and moderate income tiers.
Include provisions of Board File No. 170208 ("Proposal B"), with modified income tiers as below.
- c. Final legislation should target inclusionary units to serve the gap in coverage between low-income households who can access other existing housing programs and moderate and middle-income households earning less than the level needed to access market rate units.
Include provisions of Board File No. 170208 ("Proposal B"), with modifications, as follows:

For Rental Projects:

- i. Two-thirds of units at no more than 55% of Area Median Income
- ii. One-third of units split evenly between units at no more than 80% of Area Median Income, and units at no more than 110% of Area Median Income

For Ownership Projects:

- i. Two-thirds of units at no more than 90% of Area Median Income

- ii. One-third of units split evenly between units at no more than 110% of Area Median Income, and units at no more than 140% of Area Median Income
- d. **Designate inclusionary units at a single affordability level for Smaller projects.** This requirement should be set to match the middle tier established for larger projects, as described below.
Include provisions of Board File No. 170208 ("Proposal B"), with modifications as follows:
 - i. For Rental Projects: all inclusionary units at no more than 55% of Area Median Income
 - ii. For Ownership Projects: all inclusionary units at no more than 80% of Area Median Income
- e. Final legislation should include language requiring MOHCD to undertake necessary action to ensure that **in no case may an inclusionary affordable unit be provided at a maximum rent or sale price that is less than 20 percent below the average asking rent or sale price for the relevant market area within which the inclusionary unit is located.**
Under either ordinance, final legislation should be amended accordingly.

F. DENSITY BONUS PROVISIONS

- a. Encourage the use of density bonus to maximize the production of affordable housing. At the same time, because a density bonus may not be used in every situation, **the inclusionary requirements established in Section 415 should be economically feasible regardless of whether a density bonus is exercised.**
Include provisions of Board File No. 170208 ("Proposal B") without modification.
- b. The final Inclusionary ordinance should be paired with a local density bonus ordinance, such as the HOME-SF Program, that implements the State Density Bonus Law in a manner that is tailored to the San Francisco's contextual and policy needs.
Include provisions of Board File No. 170208 ("Proposal B") without modification.
- c. **Direct the Planning Department to require "reasonable documentation" from project sponsors seeking a State Bonus to establish eligibility for a requested density bonus, incentives of concession, and waivers or reductions of development standards, as provided for under state law, and as consistent with the process and procedures detailed in a locally adopted ordinance implementing the State Density Bonus Law.**
Include provisions of Board File No. 161351 ("Proposal A") without modification.
- d. **Require the Planning Department to prepare an annual report on the use of the Density Bonus to the Planning Commission beginning in January 2018 that details**

the number of projects seeking a bonus and the concessions, waivers, and level of bonus provided.

Include provisions of Board File No. 161351 ("Proposal A") without modification.

- e. Require that projects pay the Affordable Housing Fee on any additional units authorized by the State Bonus program.

Include provisions of Board File No. 170208 ("Proposal B") without modification.

G. UNIT MIX REQUIREMENTS

- a. Dwelling unit mix requirements should apply to total project units, not only to on-site inclusionary units to allow for inclusionary units to be provided comparable to market rate units, as required in Section 415.

Under either ordinance, final legislation should be amended accordingly.

- b. Final legislation should set a large unit requirement at 40% of the total number of units as two-bedroom or larger, with no fewer than 10% of the total number of units being provided as 3-bedroom or larger.

Under either ordinance, final legislation should be amended accordingly.

H. "GRANDFATHERING PROVISIONS

- a. Smaller Projects should remain subject to "grandfathered" on-site and fee or off-site requirements. Both Ordinances would maintain this structure.

No recommended amendments.

- b. Larger Projects (25 or more units) choosing the on-site alternative should remain subject to the incremental percentage requirements established by Proposition C.

Include provisions of Board File No. 170208 ("Proposal B") without modification.

- c. The incremental increases established for Larger Projects choosing the fee or off-site alternatives, should be amended to match the permanent requirements established in the final legislation, which should not exceed the maximum feasible rate.

Include provisions of Board File No. 170208 ("Proposal B") without modification.

- d. The incremental increases established by Proposition C for Larger Projects that entered the pipeline before 2016 and are located in UMU districts should be removed, leaving the area-specific requirements of Section 419 in place for these projects.

Include provisions of Board File No. 170208 ("Proposal B") without modification.

- e. Final legislation should explicitly establish that projects in UMU districts that entered the pipeline after January 12, 2016 should be subject to the higher of the on-site, fee, or off-site requirements set forth in Section 419 or the citywide requirements in

Section 415, as established by final legislation.

Under either ordinance, final legislation should be amended accordingly.

- f. Establish that all other Section 415 provisions will apply to pipeline projects, regardless of the acceptance date of the project's EEA; projects that were fully entitled prior to the effective date of final legislation would be subject to the inclusionary requirements in effect at the time of entitlement.

Under either ordinance, final legislation should be amended accordingly.

I. ADDITIONAL CONSIDERATIONS

- a. The Commission recommends that the Board of Supervisors should consider additional measures that may be undertaken by the City to subsidize the ancillary housing costs to owners of inclusionary ownership units, including but not limited to Homeowners Association dues.

Under either ordinance, final legislation should be amended accordingly.

- b. Final legislation should require MOHCD to provide regular reporting to the Planning Commission on the racial and household composition demographic data of occupant households of inclusionary affordable units.

Under either ordinance, final legislation should be amended accordingly.

J. REQUIRED FEASIBILITY STUDIES

- a. Additional feasibility studies to determine whether a higher on-site inclusionary affordable housing requirement is feasible on sites that have received a 20% of greater increase in developable residential gross floor area of a 35% or greater increase in residential density over prior zoning, should only be required when:
1) the upzoning has occurred after the effective date of this ordinance; 2) no feasibility study for the specific upzoning has previously been completed and published; 3) the upzoning occurred as part of an Area Plan that has already been adopted or which has already been analyzed for feasibility and community benefits prior to the effective date of the ordinance. In no case should the requirement apply for any project or group of projects that has been entitled prior to the effective date of the ordinance.

Under either ordinance, final legislation should be amended accordingly.

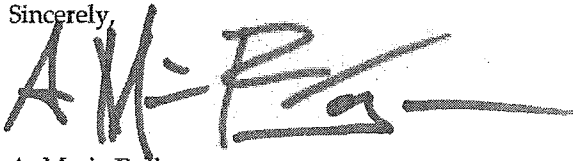
Supervisors, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission into your proposed Ordinance. Please

Transmittal Materials

CASE NO. 2017-001061PCA
Amendments to Planning Code Section 415
Inclusionary Affordable Housing Program

find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'AM-Rodgers', with a horizontal line extending to the right.

AnMarie Rodgers
Senior Policy Advisor

cc:

Audrey Pearson, Deputy City Attorney
Bobbi Lopez, Aide to Supervisor Kim
Suhagey Sandoval, Aide to Supervisor Safai
Sunny Angulo, Aide to Supervisor Peskin
Michael Howerton, Aide to Supervisor Breed
Dyanna Quizon, Aide to Supervisor Tang
Alisa Somera, Office of the Clerk of the Board
bos.legislation@sfgov.org

Attachments:

Planning Commission Resolution No. 19903
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19903

HEARING DATE: APRIL 27, 2017

Project Name: Inclusionary Affordable Housing Program (Sec 415) Amendments
Case Number: 2017-001061PCA

Initiated by: Supervisors Kim and Peskin, Introduced December 13, 2016
Version 2, Introduced February 28, 2017; Version 3, Introduced April 18, 2017
Inclusionary Affordable Housing Fee and Requirements
[Board File No. 161351]

Initiated by: Supervisors Safai, Breed, and Tang Introduced February 28, 2017
Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements
[Board File No. 170208]

Staff Contact: Jacob Bintliff, Citywide Planning Division
jacob.bintliff@sfgov.org, 415-575-9170

Reviewed by: AnMarie Rodgers, Senior Policy Advisor
anmarie.rodgers@sfgov.org, 415-558-6395

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RECOMMENDING THAT THE BOARD OF SUPERVISORS 1) ADOPT A PROPOSED ORDINANCE, WITH MODIFICATIONS THAT WOULD AMEND THE PLANNING CODE TO REVISE THE AMOUNT OF THE INCLUSIONARY AFFORDABLE HOUSING FEE AND THE ON-SITE AND OFF-SITE AFFORDABLE HOUSING ALTERNATIVES AND OTHER INCLUSIONARY HOUSING REQUIREMENTS; REQUIRE MINIMUM DWELLING UNIT MIX IN ALL RESIDENTIAL DISTRICTS; AFFIRM THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKE FINDINGS UNDER PLANNING CODE, SECTION 302; AND MAKE FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1 AND 2) AND MAKE FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1 FOR THE AFFORDABLE HOUSING BONUS PROGRAMS AND HOME-SF.

WHEREAS, on December 13, 2016 Supervisor Kim and Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 161351 (referred to in this resolution as Proposal A), which amends Section 415 of the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; and adds reporting requirements for density bonus projects; and,

WHEREAS, on February 28, 2017 Supervisor Kim and Supervisor Peskin introduced substitute legislation under Board File Number 161351v2; and,

WHEREAS, on February 28, 2017 Supervisor Safai, Supervisor Breed, and Supervisor Tang introduced a proposed ordinance under Board File Number 170208 (referred to in this resolution as Proposal B), which amends the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; and requires a minimum dwelling unit mix in all residential districts; and,

WHEREAS, on September 29, 2015, Mayor Ed Lee and Supervisor Tang introduced a proposed Ordinance under Board File Number 150969, to add Planning Code Section 206 to create the Affordable Housing Bonus Program, the 100 Percent Affordable Housing Bonus Program, the Analyzed State Density Bonus Program, and the Individually Requested State Density Bonus Program, to provide for development bonuses and zoning modifications for increased affordable housing, in compliance with, and above those required by the State Density Bonus Law, Government Code, Section 65915, et seq.; to establish the procedures in which these Programs shall be reviewed and approved; and to add a fee for applications under the Programs; and

WHEREAS, on October 15, 2015 the Planning Commission voted to initiate an amendment to the General Plan to add language to certain policies, objectives and maps that clarified that the City could adopt policies or programs that allowed additional density and development potential if a project included increased amounts of on-site affordable housing; and

WHEREAS, on February 25, 2016, this Commission found that the Affordable Housing Bonus Program was, on balance, consistent with the San Francisco General Plan as amended, and forwarded the Affordable Housing Bonus Program, together with several recommended amendments, to the Board of Supervisors for their consideration; and

WHEREAS, on June 13, 2016, Supervisor Tang duplicated the AHBP ordinance file and amended the AHBP ordinance to include only the 100% Affordable Housing Bonus Program, and amended the 100% Affordable Housing Bonus Program to, among other items, prohibit the use of the program on parcels containing residential units and to allow an appeal to the Board of Supervisors; and

WHEREAS, on June 30, 2016, in Resolution 19686, the Planning Commission found that both the 100% Affordable Housing Bonus Program [BF 150969] and 100% Affordable Housing Density and Development Bonuses [BF 160668] to be consistent with the General Plan, and in July 2016 the Board of Supervisors adopted the 100% Affordable Housing Bonus Program, which is now found in Planning Code section 206; and

WHEREAS, the state law requires that localities adopt ordinances implementing the State Density Bonus Law and comply with its requirements, and the Affordable Housing Bonus Program described in Board File No. 150969, would be such a local ordinance implementing the State Density Bonus Law; and

WHEREAS, on March 13, 2017 the Land Use and Transportation Committee amended the Affordable Housing Bonus Program in Board File Number 161351v6, renaming the Local Affordable Housing Bonus Program as the HOME-SF Program and amending, among other requirements, the HOME-SF Program's average median income levels such that those levels mirror the average median income levels in the

ordinance amending the Inclusionary Affordable Housing Program introduced by Supervisors Safai, Breed and Tang on February 28, 2017, and this Commission must consider whether the Affordable Housing Bonus Program ordinance as amended, is consistent with the General Plan; and

WHEREAS, both proposed ordinances amending the Inclusionary Affordable Housing Program include an explicit reference to the State Density Bonus Law under California Government Code Section 65915, and at least one of the proposed ordinances explicitly references the Affordable Housing Bonus Program in Board File No. 150969, or its equivalent; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public informational hearing at a regularly scheduled meeting to consider the two proposed ordinances on March 16, 2017; and

WHEREAS, The Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the two proposed Ordinances on April 27, 2017; and

WHEREAS, the proposed amendments to the Inclusionary Affordable Housing Program in the two ordinances are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment, and on January 14, 2016 the Planning Department published Addendum 3 to the *2004 and 2009 Housing Element EIR* analyzing the environmental impacts of the Affordable Housing Bonus Program, and having reviewed the EIR and the addenda thereto, the Planning Commission finds that no further assessment of supplemental or subsequent EIR is required; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the two proposed ordinances amending the Inclusionary Affordable Housing Program and the amendments to the Affordable Housing Bonus Program including the HOME-SF Program; and

WHEREAS, The Planning Commission determines that:

1. In making the recommendation to revise the Inclusionary Affordable Housing Program, the Commission reaffirms the Board of Supervisor's policy established by Resolution Number 79-16 that it shall be City policy to maximize the economically feasible percentage of inclusionary affordable housing in market rate housing development.
2. Inclusionary requirements should not exceed the rates recommended in the Controller's Economic Feasibility Study established in Proposition C, that the maximum economically feasible requirements for the on-site alternative are 18% for rental projects or 20% for ownership projects,

or the equivalent of a fee or off-site alternative requirement of 23% for rental projects or 28% for ownership projects.

3. The Inclusionary Affordable Housing Program requirements should remain below the City's current Nexus Study.
4. The City should use the Inclusionary Affordable Housing Program to help serve the housing needs for low-, moderate-, and above-moderate income households that area above the level eligible for projects supported by federal low income housing tax credits, and also earn below the minimum level needed to access market rate housing units in San Francisco. Specifically inclusionary units should be designated to serve households earning at or below 55%, 80%, and 110% of Area Median Income (AMI) for Rental Projects, or 90%, 110%, and 140% of Area Median Income (AMI) for Ownership Projects, with 25 or more units.
5. The Planning Department should implement additional monitoring and reporting procedures regarding the use of the State Density Bonus Law, and should require that eligible projects that seek and receive a bonus under the State Bonus Law pay the Affordable Housing Fee on additional units provided.
6. The incremental increases to the inclusionary requirements as established by the passage of Proposition C for projects that entered the pipeline between January 1, 2013 and January 12, 2016 should be retained for projects electing the on-site alternative, and removed for projects paying the Affordable Housing Fee or electing the off-site alternative, to maintain consistency with the recommended maximum economically feasible requirements recommended in the Controller's Study.
7. The City should adopt a local ordinance, such as the HOME-SF Program, that implements the State Density Bonus Law in a manner that is tailored to the San Francisco's contextual and policy needs.
8. The purpose of both the two proposed ordinances amending the Inclusionary Affordable Housing Program and the amendments to the proposed Affordable Housing Bonus Program ordinance to create the HOME-SF Program is to facilitate the development and construction of affordable housing in San Francisco.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission hereby **finds** that 1) that both proposed ordinances to amend the Inclusionary Affordable Housing Program and the Commission's recommended modifications to the Inclusionary Affordable Housing Program and 2) the Affordable Housing Bonus Program, including the HOME-SF Program and pending amendments, are **consistent with the General Plan** for the reasons set forth below; and be it

FURTHER RESOLVED, that the Planning Commission hereby **recommends** that the Board of Supervisors approve a modified ordinance that combines elements of both proposals to revise the

Inclusionary Affordable Housing Program as described within this resolution and adopts the findings as set forth below.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

9. **General Plan Compliance.** The three proposed Ordinances and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

POLICY 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Both ordinances amending the Inclusionary Affordable Housing Program further the potential for creation of permanently affordable housing in the City and facilitate an increase the number of affordable housing units that could be built in San Francisco. Generally affordable projects require that units be affordable for 55 years or permanently, depending on the funding source. This program is one tool to plan for affordable housing needs of very low, low and moderate income households.

The HOME-SF Program eligible districts generally include the City's neighborhood commercial districts, where residents have easy access to daily services, and are located along major transit corridors. The HOME-SF Program eligible districts generally allow or encourage mixed uses and active ground floors. On balance the program area is located within a quarter-mile (or 5 minute-walk) of the proposed Muni Rapid Network, which serves almost 70% of Muni riders and will continue to receive major investments to prioritize frequency and reliability.

POLICY 1.6

Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.

Both ordinances amending the Inclusionary Affordable Housing Program provide greater flexibility in the number of units permitted in new affordable housing projects by providing increased heights; relief from any residential density caps, and allowing some zoning modifications. This is achieved by pairing the programs with either the State Density Bonus Law, California Government Code section 65915 et seq. or

through a local ordinance implementing the state law, such as the Affordable Housing Bonus Program or HOME-SF.

POLICY 1.8

Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance generally include the city's neighborhood commercial districts, where residents have easy access to daily services, and are located along major transit corridors.

POLICY 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

On balance, the ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance identify eligible parcels that are located within a quarter-mile (or 5 minute-walk) of the proposed Muni Rapid Network, which serves almost 70% of Muni riders and will continue to receive major investments to prioritize frequency and reliability. These ordinances would support projects that include affordable units where households could easily rely on transit.

POLICY 3.3

Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance increase affordable ownership opportunities for households with moderate incomes.

Proposed Ordinance BF 161351-2 amending the Inclusionary Affordable Housing Program generally maintains the current "low" and "moderate" income tiers, with the significant change that these targets would be defined as an average AMI served by the project, with units falling within a specified range of income levels. Considering the average incomes served (98% equivalent average for ownership), the proposal would serve households in the middle of both the Low Income (50 – 80% AMI) and Moderate Income (80 – 120% AMI) groups, and would meet the demonstrated need of both income groups, while serving segments of both income groups that are least served by the City's current affordable housing programs.

Proposed Ordinances BF 170208 amending the Inclusionary Affordable Housing Program and proposed Ordinance BF 150969 creating the HOME-SF Program would generally raise the AMI levels served by the Inclusionary Program, and also define income levels as an average AMI served by the project. Considering the average incomes served, these proposals would serve households at the upper end of both the Low Income (50 – 80% AMI) and Moderate (80 – 120% AMI) groups, and would meet the demonstrated need of both income groups, while serving segments of both income groups that are least served by the City's current affordable housing programs.

POLICY 4.1

Develop new housing, and encourage the remodeling of existing housing, for families with children.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance can increase the supply of new affordable housing, including new affordable housing for

families. Both ordinance amending the Inclusionary Affordable Housing Program include dwelling unit mix requirements that encourage certain percentages of units with two or three bedrooms, and the HOME-SF Program includes a dwelling unit mix requirement and encourage family friendly amenities.

POLICY 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance encourage the development of greater numbers of permanently affordable housing, including rental units. These affordable units are affordable for the life of the project.

Policy 4.5

Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

Both ordinances amending the Inclusionary Affordable Housing reach throughout the City and the HOME-SF Program Ordinance reaches the City's neighborhood commercial districts all three of which enables the City to increase the number of very low, low and moderate income households and encourage integration of neighborhoods.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance seek to create permanently affordable housing by leveraging the investment of private development.

Policy 7.5

Encourage the production of affordable housing through process and zoning accommodations, and prioritize affordable housing in the review and approval processes.

The HOME-SF Program Ordinance provides zoning and process accommodations including priority processing for projects that participate by providing on-site affordable housing.

OBJECTIVE 8

BUILD PUBLIC AND PRIVATE SECTOR CAPACITY TO SUPPORT, FACILITATE, PROVIDE AND MAINTAIN AFFORDABLE HOUSING.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance support this objective by revising the Inclusionary Affordable Housing Program to maximize the production of affordable housing in concert with the production of market-rate housing.

POLICY 8.3

Support the production and management of permanently affordable housing.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance support the production of permanently affordable housing supply.

POLICY 10.1

Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations.

The HOME-SF Program Ordinance proposes a clear and detailed review and entitlement process. The process includes detailed and limited zoning concessions and modifications. Depending the selected program projects will either have no change to the existing zoning process, or some projects will require a Conditional Use Authorization.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance encourage mixed income buildings and neighborhoods.

In recognition that the projects utilizing the AHBP will sometimes be taller or of differing mass than the surrounding context, the AHBP Design Guidelines clarify how projects shall both maintain their size and adapt to their neighborhood context. These design guidelines enable AHBP projects to support and respect the diverse and distinct character of San Francisco's neighborhoods.

POLICY 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Establishing permanently affordable housing in the City's various neighborhoods would enable the City to stabilize very low, low and moderate income households. These households meaningfully contribute to the existing character of San Francisco's diverse neighborhoods.

POLICY 11.5

Ensure densities in established residential areas promote compatibility with prevailing neighborhood character.

Both ordinances amending the Inclusionary Affordable Housing Program will produce buildings that are generally compatible with existing neighborhoods. State Density Bonus Law, California Government Code section 65915 et seq. does enable higher density than San Francisco's zoning would otherwise allow.

In recognition that the projects utilizing the AHBP will sometimes be taller or of differing mass than the surrounding context, the AHBP Design Guidelines clarify how projects shall both maintain their size and adapt to their neighborhood context. These design guidelines enable AHBP projects to support and respect the diverse and distinct character of San Francisco's neighborhoods.

OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

OBJECTIVE 13

PRIORITIZE SUSTAINABLE DEVELOPMENT IN PLANNING FOR AND CONSTRUCTING NEW HOUSING.

Housing produced under either ordinance amending the Inclusionary Affordable Housing Program and that produced through the HOME-SF Program Ordinance would pay impact fees that support the City's infrastructure.

POLICY 13.1

Support "smart" regional growth that locates new housing close to jobs and transit.

On balance the AHBP area is located within a quarter-mile (or 5 minute-walk) of the proposed Muni Rapid network, which serves almost 70% of Muni riders and will continue to receive major investments to prioritize frequency and reliability.

URBAN DESIGN ELEMENT

POLICY 4.15

Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

In recognition that the projects utilizing the AHBP will sometimes be taller or of differing mass than the surrounding context, the AHBP Design Guidelines clarify how projects shall both maintain their size and adapt to their neighborhood context.

BALBOA PARK AREA PLAN

OBJECTIVE 4.5: PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO A MIX OF HOUSEHOLDS AT VARYING INCOME LEVELS.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities for a mix of household incomes.

BAYVIEW AREA PLAN

OBJECTIVE 6 ENCOURAGE THE CONSTRUCTION OF NEW AFFORDABLE AND MARKET RATE HOUSING AT LOCATIONS AND DENSITY LEVELS THAT ENHANCE THE OVERALL RESIDENTIAL QUALITY OF BAYVIEW HUNTERS POINT.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance provide zoning and process accommodations which would increase affordable housing opportunities for a mix of household incomes.

CENTRAL WATERFRONT AREA PLAN

OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE CENTRAL WATERFRONT IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance provide zoning and process accommodations which would increase affordable housing opportunities

CHINATOWN AREA PLAN

OBJECTIVE 3

STABILIZE AND WHERE POSSIBLE INCREASE THE SUPPLY OF HOUSING.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance provide zoning and process accommodations which would increase affordable housing opportunities.

DOWNTOWN PLAN

OBJECTIVE 7

EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

The HOME-SF Program Ordinance provide zoning and process accommodations which would increase affordable housing opportunities.

MARKET AND OCTAVIA AREA PLAN

OBJECTIVE 2.4

PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO HOUSEHOLDS AT VARYING INCOME LEVELS.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

MISSION AREA PLAN

OBJECTIVE 2.1

ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE MISSION IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

SHOWPLACE/POTRERO HILL AREA PLAN

OBJECTIVE 2.1

ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE SHOWPLACE /POTRERO IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

SOMA AREA PLAN

OBJECTIVE 3

ENCOURAGE THE DEVELOPMENT OF NEW HOUSING, PARTICULARLY AFFORDABLE HOUSING.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

WESTERN SHORELINE AREA PLAN

POLICY 11.1

Preserve the scale and character of existing residential neighborhoods by setting allowable densities at the density generally prevailing in the area and regulating new development so its appearance is compatible with adjacent buildings.

The AHBPs provide zoning and process accommodations which would increase affordable housing opportunities. Based on staff and consultant analysis, the City understands that current allowable densities are not always reflective of prevailing densities in a neighborhood. Many buildings constructed before the 1970's and 1980's exceed the existing density regulations. Accordingly zoning concessions available through the AHBP generally set allowable densities within the range of prevailing densities.

POLICY 11.3

Continue the enforcement of citywide housing policies, ordinances and standards regarding the provision of safe and convenient housing to residents of all income levels, especially low- and moderate-income people.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

POLICY 11.4

Strive to increase the amount of housing units citywide, especially units for low- and moderate-income people.

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

WESTERN SOMA AREA PLAN

OBJECTIVE 3.3

ENSURE THAT A SIGNIFICANT PERCENTAGE OF THE NEW HOUSING CREATED IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would increase affordable housing opportunities.

10. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

Neither ordinances amending the Inclusionary Affordable Housing Program would have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

Pairing either ordinance with the HOME-SF Program Ordinance would create a net addition of neighborhood serving commercial uses. Many of the districts encourage or require that commercial uses be placed on the ground floor. These existing requirements ensure the proposed amendments will not have a negative effect on neighborhood serving retail uses and will not affect opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

Neither ordinance amending the Inclusionary Affordable Housing Program would have a negative effect on housing or neighborhood character.

Pairing either ordinance with the HOME-SF Program Ordinance would conserve and protect the existing neighborhood character by stabilizing very low, low and moderate income households who contribute greatly to the City's cultural and economic diversity, and by providing design review opportunities through the Affordable Housing Bonus Program Design Review Guidelines and Board of Supervisors appeal process.

3. That the City's supply of affordable housing be preserved and enhanced;

Both ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance increase City's supply of permanently affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

Neither ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

Neither ordinances amending the Inclusionary Affordable Housing Program and the HOME-SF Program Ordinance would cause displacement of the industrial or service sectors due to office development as it does not enable office development. Further, protected industrial districts, including M-1, M-2 and PDR are not eligible for the HOME SF Program.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinances would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinances would not have an adverse effect on the City's Landmarks and historic buildings. Further the HOME-SF Program Ordinance specifically excludes any projects that would cause a substantial adverse change in the significance of an historic resource as defined by California Code of Regulations, Title 14, Section 15064.5.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinances would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas. Further the HOME-SF Program Ordinance specifically excludes any projects that would adversely impact wind or shadow.

11. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302; and .

BE IT FURTHER RESOLVED that the Commission hereby recommends that the Board ADOPT a proposed Ordinance amending the Inclusionary Affordable Housing Program that includes elements of both the Ordinance proposed by Supervisors Kim and Peskin (referred to below as Proposal A) and the Ordinance proposed by Supervisors Safai, Bree, and Tang (referred to below as Proposal B), as described here:

A. APPLICATION

VOTE +7 -0

- a. Inclusionary requirements should continue to apply only to residential projects of 10 or more units, and additional requirements should continue to be applied for Larger Projects of 25 or more units, as currently defined in both Ordinances. **No amendments are needed.**

B. INCLUSIONARY REQUIREMENTS

VOTE +5 -2 (MELGAR, MOORE AGAINST)

- a. The requirement for Smaller Projects (10 – 24 units) should remain 20% for the fee or off-site alternative, or 12% for the on-site alternative, as currently defined in both Ordinances. **No amendments are needed.**
- b. Set higher requirements for ownership projects than for rental projects, for Larger Projects (25 or more units). Both Ordinances would establish this structure. **No amendments are needed.**
- c. **Include a condominium conversion provision** to specify that projects converting to ownership projects must pay a **conversion fee** equivalent to the difference between the fee requirement for ownership projects in effect at the time of the conversion and the requirement the project satisfied at the time of entitlement. **Include provisions of Proposal A, with modifications.**
- d. Establish fee, on-site, and off-site requirements for Larger Projects (25 or more units) that are within the range of “maximum economically feasible” requirements recommended in the Controller’s Study. **Include provisions of Proposal B without modification, as follows:**
- e. For Rental Projects:
 - Fee or Off-Site Alternative: equivalent of 23% of project units
 - On-Site Alternative: 18% of project units
- f. For Ownership Projects:
 - Fee or Off-Site Alternative: equivalent of 28% of project units
 - On-Site Alternative: 20% of project units

C. SCHEDULE OF ANNUAL INCREASES TO REQUIREMENTS

VOTE +6 -1 (MOORE AGAINST)

- a. **Establish an explicit maximum requirement** at which the schedule of increases would terminate, and that rate should be below the maximum requirement legally supported by the Nexus Study. **Include provisions of Proposal B with modifications to clarify that this provision also applies to both smaller and larger projects.**
- b. Establish that requirement rates be **increased by 1.0 percentage point every two years.** **Include provisions of Proposal B, with modifications to clarify that this provision also applies to both smaller and larger projects.**

- c. The schedule of increases should commence no fewer than 24 months following the effective date of final ordinance for both smaller and larger projects. Under either ordinance, final legislation should be amended accordingly.
- d. Establish a "sunset" provision that is consistent with current practices for the determination of inclusionary requirements and Planning Department procedures, specifically that the requirement be established at the date of Environmental Evaluation Application and be reset if the project has not received a first construction document within three years of the project's first entitlement approval. Include provisions of Proposal B with modifications to clarify that this provision also applies to both smaller and larger projects.

D. AFFORDABLE HOUSING FEE

VOTE +5 -2 (MELGAR, MOORE AGAINST)

- a. Apply the fee on a per gross square foot basis so that the fee is assessed proportionally to the total area of the project. Include provisions of Proposal B without modification.
- b. Revise language to allow MOHCD to calculate the fee to match the actual cost to the City to construct below market rate units, without factoring the maximum sale price of the equivalent inclusionary unit. Include provisions of Proposal B without modification.

E. INCOME LEVELS

VOTE +4 -3 (FONG, KOPPEL, HILLIS AGAINST)

- a. Establish affordability requirements that clearly apply to the maximum rent or maximum sale price of the inclusionary unit, and not to the income level of the household placed in that unit. Under either ordinance, final legislation should be amended accordingly.
- b. Designate inclusionary units at three discrete affordability levels for larger projects to better serve households with incomes between the current low and moderate income tiers. Include provisions of Proposal B, with modifications.
- c. Final legislation should target inclusionary units to serve the gap in coverage between low-income households who can access other existing housing programs and moderate and middle-income households earning less than the level needed to access market rate units. Include provisions of Proposal B, with modifications, as follows:
 - i. For Rental Projects:
 - i. Two-thirds of units at no more than 55% of Area Median Income
 - ii. One-third of units split evenly between units at no more than 80% of Area Median Income, and units at no more than 110% of Area Median Income
 - ii. For Ownership Projects:
 - i. Two-thirds of units at no more than 90% of Area Median Income

- ii. One-third of units split evenly between units at no more than 110% of Area Median Income, and units at no more than 140% of Area Median Income
- d. Designate inclusionary units at a single affordability level for smaller projects. This requirement should be set to match the middle tier established for larger projects, as described below. Include provisions of Proposal B, with modifications as follows:
 - i. For Rental Projects: all inclusionary units at no more than 55% of Area Median Income
 - ii. For Ownership Projects: all inclusionary units at no more than 80% of Area Median Income
- e. Final legislation should include language requiring MOHCD to undertake necessary action to ensure that in no case may an inclusionary affordable unit be provided at a maximum rent or sale price that is less than 20 percent below the average asking rent or sale price for the relevant market area within which the inclusionary unit is located.

F. DENSITY BONUS PROVISIONS

VOTE +5 -2 (MELGAR, MOORE AGAINST)

- a. Encourage the use of density bonus to maximize the production of affordable housing. At the same time, because a density bonus may not be used in every situation, the **inclusionary requirements established in Section 415 should be economically feasible regardless of whether a density bonus is exercised. Include provisions of Proposal B without modification.**
- b. The final Inclusionary ordinance should be paired with a local density bonus ordinance, such as the HOME-SF Program, that implements the State Density Bonus Law in a manner that is tailored to the San Francisco's contextual and policy needs. **Include provisions of Proposal B without modification.**
- c. **Direct the Planning Department to require "reasonable documentation" from project sponsors seeking a State Bonus to establish eligibility for a requested density bonus, incentives of concession, and waivers or reductions of development standards, as provided for under state law, and as consistent with the process and procedures detailed in a locally adopted ordinance implementing the State Density Bonus Law. Include provisions of Proposal A without modification.**
- d. **Require the Planning Department to prepare an annual report on the use of the Density Bonus to the Planning Commission beginning in January 2018 that details the number of projects seeking a bonus and the concessions, waivers, and level of bonus provided. Include provisions of Proposal A without modification.**

- e. **Require that projects pay the Affordable Housing Fee on any additional units authorized by the State Bonus program. Include provisions of Proposal B without modification.**

G. UNIT MIX REQUIREMENTS

VOTE +7 -0

- a. **Dwelling unit mix requirements should apply to total project units, not only to on-site inclusionary units to allow for inclusionary units to be provided comparable to market rate units, as required in Section 415. Under either ordinance, final legislation should be amended accordingly.**
- b. **Final legislation should set a large unit requirement at 40% of the total number of units as two-bedroom or larger, with no fewer than 10% of the total number of units being provided as 3-bedroom or larger. Under either ordinance, final legislation should be amended accordingly.**

H. "GRANDFATHERING" PROVISIONS

VOTE +7 -0

- a. **Smaller Projects should remain subject to "grandfathered" on-site and fee or off-site requirements. Both Ordinances would maintain this structure. No amendments are needed.**
- b. **Larger Projects (25 or more units) choosing the on-site alternative should remain subject to the incremental percentage requirements established by Proposition C. Include provisions of Proposal B without modification.**
- c. **The incremental increases established for Larger Projects choosing the fee or off-site alternatives, should be amended to match the permanent requirements established in the final legislation, which should not exceed the maximum feasible rate. Include provisions of Proposal B without modification.**
- d. **The incremental increases established by Proposition C for Larger Projects that entered the pipeline before 2016 and are located in UMU districts should be removed, leaving the area-specific requirements of Section 419 in place for these projects. Include provisions of Proposal B without modification.**
- e. **Final legislation should explicitly establish that projects in UMU districts that entered the pipeline after January 12, 2016 should be subject to the higher of the on-site, fee, or off-site requirements set forth in Section 419 or the citywide requirements in Section 415, as established by final legislation. Under either ordinance, final legislation should be amended accordingly.**

- f. Establish that all other Section 415 provisions will apply to pipeline projects, regardless of the acceptance date of the project's EEA; projects that were fully entitled prior to the effective date of final legislation would be subject to the inclusionary requirements in effect at the time of entitlement. Under either ordinance, final legislation should be amended accordingly.

I. ADDITIONAL CONSIDERATIONS

VOTE +7 -0

- a. The Commission recommends that the Board of Supervisors should consider additional measures that may be undertaken by the City to subsidize the ancillary housing costs to owners of inclusionary ownership units, including but not limited to Homeowners Association dues.
- b. Final legislation should require MOHCD to provide regular reporting to the Planning Commission on the racial and household composition demographic data of occupant households of inclusionary affordable units.

J. REQUIRED FEASIBILITY STUDIES

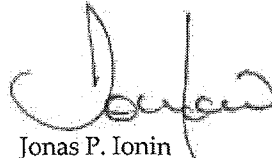
VOTE +4 -3 (JOHNSON, KOPPEL, MOORE)

- a. Additional feasibility studies to determine whether a higher on-site inclusionary affordable housing requirement is feasible on sites that have received a 20% or greater increase in developable residential gross floor area of a 35% or greater increase in residential density over prior zoning, should only be required when: 1) the upzoning has occurred after the effective date of this ordinance; 2) no feasibility study for the specific upzoning has previously been completed and published; 3) the upzoning occurred as part of an Area Plan that has already been adopted or which has already been analyzed for feasibility and community benefits prior to the effective date of the ordinance. In no case should the requirement apply for any project or group of projects that has been entitled prior to the effective date of the ordinance.

Resolution No. 19903
April 27, 2017

CASE NO. 2017-001061PCA
Inclusionary Affordable Housing Program Amendments

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 27 2017.



Jonas P. Ionin
Commission Secretary

AYES: Fong, Richards, Hillis, Melgar, Koppel, Johnson

NOES: Moore

ABSENT: None

ADOPTED: April 27, 2017



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary

PLANNING CODE TEXT AMENDMENTS INCLUSIONARY AFFORDABLE HOUSING PROGRAM

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ADOPTION HEARING DATE: APRIL 27, 2017

EXPIRATION DATE: MAY 28, 2017

Project Name: Inclusionary Affordable Housing Program
Section 415 Amendments
Case Number: 2017-001061PCA

Initiated by: Supervisors Kim and Peskin, Introduced December 13, 2016
Version 2, Introduced February 28, 2017
Inclusionary Affordable Housing Fee and Requirements
[Board File No. 161351]

Initiated by: Supervisors Safai, Breed, and Tang Introduced February 28, 2017
Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements
[Board File No. 170208]

Staff Contact: Jacob Bintliff, Citywide Planning Division
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I. BACKGROUND

Inclusionary Housing Program

The Inclusionary Affordable Housing Program is one of the City's key tools for increasing the availability of affordable housing dedicated to low and moderate income San Franciscans, and has resulted in more than 4,600 units of permanently affordable housing since its adoption in 2002. **Inclusionary housing is distinguished from other affordable housing programs in that it provides new affordable units without the use of public subsidies.** For this reason, the program can address the growing needs of low, moderate, and middle income households that cannot be served by other common affordable housing funding sources, such as the federal Low Income Housing Tax Credit program.

Proposition C and the Controller's Economic Feasibility Study

In March 2016, the Board of Supervisors unanimously adopted a resolution¹ declaring that it shall be City policy to maximize the economically feasible percentage of inclusionary affordable housing in market rate housing development. In June, as housing prices rose drastically, San Francisco voters approved a Charter Amendment (Proposition C), which restored the City's ability to adjust affordable housing requirements for new development by ordinance.

The passage of the Proposition C then triggered the provisions of the so-called "trailing ordinance" [BF 160255, Ord. 76-16²], adopted by the Board of Supervisors in May 2016, which amended the Planning and Administrative Codes to 1) temporarily increase the Inclusionary Affordable Housing requirements, pending further action by the Board of Supervisors; 2) require an Economic Feasibility Study by the Office of the Controller; and 3) establish an Inclusionary Housing Technical Advisory Committee (TAC) to advise the Controller.

The TAC convened from July, 2016 to February, 2017 and Controller provided a set of preliminary recommendations³ to the Board of Supervisors on September 13, 2016 and issued a set of final recommendations on February 13, 2017⁴. The City's Chief Economist presented the Controller's recommendations to the Planning Commission on February 23, 2017.

¹ Establishing City Policy Maximizing a Feasible Inclusionary Affordable Housing Requirement [Board File No 160166, Reso. No. 79-16], approved March 11, 2016. Available at:

<https://sfgov.legistar.com/View.ashx?M=F&ID=4302571&GUID=8243D8E2-2321-4832-A31B-C47B52F71DB2>

² The ordinance titled, "Inclusionary Affordable Housing Fee and Requirements; Preparation of Economic Feasibility Report; Establishing Inclusionary Housing Technical Advisory Committee," was considered by the Planning Commission on March 31, 2016. The Commission's recommendations are available here:

<https://sfgov.legistar.com/View.ashx?M=F&ID=4387468&GUID=8D639936-88D9-44E0-B7C4-F61E3E1568CF>

³ Office of the Controller. "Inclusionary Housing Working Group: Preliminary Report September 2016". September 13, 2016:

<http://sfcontroller.org/sites/default/files/Preliminary%20Report%20September%202016.pdf>

⁴ Office of the Controller. "Inclusionary Housing Working Group: Final Report," published February, 13 2017, with the consulting team of Blue Sky Consulting Group, Century Urban LLC, and Street Level

Pending Amendments to the Inclusionary Housing Program

On December 13, 2016, Supervisor Kim and Supervisor Peskin introduced "Inclusionary Affordable Housing Fee and Requirements" [BF 161351]. This ordinance was substituted on February 28, 2017 and within this report will be referred to as "**Proposal A: Supervisor Kim and Supervisor Peskin.**" Supervisor Safai, Supervisor Breed, and Supervisor Tang introduced "Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements" [Board File No. 170208] on February 28, 2017. This report will refer to this ordinance as "**Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang**".

The legislative sponsors for Proposal A describe that this Inclusionary ordinance is intended to be paired with the State Density Bonus Law; and that such a pairing is needed to maintain the economic feasibility of individual development projects and to maximize affordable housing production.

The legislative sponsors of Proposal B have described that individual development projects would remain economically feasible with or without a density bonus. However, to maximize affordable housing production in a manner compatible with local policy goals, their Inclusionary ordinance is paired with HOME-SF⁵, a proposal for a locally tailored implementation of the state density bonus law.

Advisors. Available at:

<http://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/Final%20Inclusionary%20Housing%20Report%20February%202017.pdf>

⁵ On March 13, 2017 the Land Use and Transportation Committee amended an ordinance previously reviewed by the Commission when it was titled "Affordable Housing Bonus Program" [Board File Number 161351v6], renaming the Local Affordable Housing Bonus Program as the HOME-SF Program. The legislative sponsor, Supervisor Tang, announced changes to the program to afford protections for small businesses and change the levels of affordability to match a companion ordinance that would amend the Inclusionary Affordable Housing Program sponsored by Supervisors Safai, Breed & Tang.

Planning Commission Hearings and Additional Supporting Material

The Commission held an informational hearing on the proposed changes on March 16, 2017. The accompanying staff report for that informational hearing, dated March 9, 2017, provides a more detailed summary of the current inclusionary housing program; the findings and recommendations of the Controller's Study; the provisions of both proposed ordinances; and key policy considerations around proposed changes to each component of the program.

The informational report is publicly available with the supporting materials for the March 9, 2017 Planning Commission hearing⁶, when the item was originally calendared. That report included a comparison chart of the provisions of both proposed ordinances, as well as the current program. This comparison chart is reproduced here as Exhibit A for reference.

This report is intended to assist the Commission's action on the proposed ordinances. As such, less background is provided and the focus is on potential recommendations for each of the program areas for which changes have been proposed. For ease of reference, **a summary chart of the recommendations by topic is provided here as Exhibit B.**

⁶ <http://commissions.sfplanning.org/cpcpackets/2017-001061PCA-02.pdf>

II. IMPLEMENTATION CONSIDERATIONS

Either proposed ordinance would constitute the most sweeping set of structural and material changes to the City's Inclusionary Housing Program since the program's inception. Accordingly, Planning Department staff have reviewed each ordinance carefully and seek to raise key program implementation considerations before the Commission.

In addition to the major policy objectives discussed below, these considerations also guided staff's recommendations on the proposed changes to the inclusionary program. This section provides a brief summary of the key implementation considerations by topic. Most of these considerations will require the development of additional policies and procedures by the Planning Department after the adoption of final legislation.

Designation of Inclusionary Units

The Planning Department is responsible for legally designating the specific inclusionary affordable units within a project that elects the on-site alternative. This process is bound by multiple procedures and requirements in the Planning Code and the Procedures Manual published by MOHCD and approved by this Commission. The total of these requirements relate to the distribution of the units throughout the building and comparability of affordable and market rate units, among other factors.

The proposed ordinances would include inclusionary units at multiple income tiers, and at specific dwelling unit mixes, and would require the development of new procedures to clearly define how inclusionary units will be designated.

The Department has not yet developed these procedures, and the recommendations in this report do not reflect any particular approach to unit designation under either ordinance. The Department has, however, had experience in review of a project with multiple income tiers and is confident that staff will be able to broadly implement such requirements.

Rental to Condominium Conversions

Both ordinances would establish higher requirements for condominium projects than for rental projects. In the event that a project converts from rental to condominium after the project's entitlement, the Planning Department would be responsible for implementing any conversion procedures called for in Section 415. Staff's recommendation for a conversion fee is included in this report.

However, it should be noted that the Planning Department does not currently have procedures in place to monitor changes in project tenure following entitlement, and the range of options available to monitor such conversions is unknown at this time. Such procedures would need to be developed in coordination with the Department of Public Works, which is currently the primary agency responsible for tracking such conversions.

“Grandfathering” and Specific-Area Requirements

The proposed amendments to Section 415 would significantly impact the “grandfathering” provisions established by Proposition C; certain area-specific inclusionary requirements for pipeline and future projects; and modify requirements applicable to projects that are currently in the development pipeline in some cases. Accordingly, the Department offers specific recommendations regarding these issues in the relevant section of the report below.

Schedule of Annual Increases to Requirements

Both ordinances would establish a schedule of annual increases to the inclusionary requirements. Such provisions would require that the Planning Department publish new requirements annually for 10 or more years, and apply these requirements in a consistent and appropriate manner for projects whose entitlement process will span several years. Accordingly, the Department offers specific recommendations regarding this provision in the relevant section of the report below.

Affordable Housing Fee Application

The Planning Department is responsible for assessing the Affordable Housing Fee for projects that elect the fee option. The proposals would modify the way the fee is assessed, including a proposal to assess the fee on a per square foot basis, rather than the current method of assessing the fee on a per unit basis. The Department’s recommendation in the relevant section of this report reflects any implementation considerations related to such amendments.

III. REQUIRED COMMISSION ACTION

The proposed Ordinances are before the Commission so that it may 1) make recommendations to the Board of Supervisors as required by Planning Code Section 302; 2) affirm the Planning Department's determinations under the California Environmental Quality Act; 3) make findings of consistency of the proposed ordinances [Board Files 161351v2; 170208] and the associated HOME-SF Program [Board File Number 150969v6], with the General Plan; and 4) make findings regarding the eight priority policies of Planning Code Section 101.1.

These items may be acted upon or may be continued, at the discretion of the Commission.

IV. RECOMMENDATIONS

The Department recommends making findings in support of the proposed Ordinances and associated actions as described in the attached draft resolution (Exhibit C). This section focuses on potential Commission recommendations based on staff analysis of the City's affordable housing need, our existing housing programs, the findings of the Controller's Study, comments from the Commission and the public, consultation with MOHCD, and considerations of program implementation. A summary of these recommendations is provided as Exhibit B.

These recommendations build on the key policy issues and considerations described in detail in the informational report dated March 9, 2017. These considerations are briefly reintroduced below as needed. For detailed reference, the informational report is available online with the materials for the March 9, 2017 Planning Commission hearing⁷ and the comparison chart of proposed amendments from that report is included here as Exhibit A, for reference.

A. APPLICATION

No changes are proposed to the general application of Section 415 requirements. The program would continue to apply only to projects of 10 or more units. Projects of 25 or more units would continue to have higher requirements than smaller projects, which would remain subject to the requirements in place prior to the passage of Proposition C.⁸

- **Recommendation:** Requirements should continue to be applied differently for Smaller and Larger Projects, as currently defined in both Ordinances. **No amendments are needed.**

⁷ <http://commissions.sfplanning.org/cpcpackets/2017-001061PCA-02.pdf>

⁸ As of January 1, 2016 Section 415 required that projects of 10 or more units provide 12% of units on-site, or pay a fee or provide off-site units equivalent of 20% of the project total.

B. INCLUSIONARY REQUIREMENTS

Rental and Ownership Requirements

Both proposals would set higher requirements for ownership projects than for rental projects, as recommended by the Controller's Study.

- **Recommendation:** Set higher requirements for ownership projects than for rental projects. Both Ordinances would establish this structure. **No amendments are needed.**

In addition, Proposal A would establish additional **conversion provisions** for projects that are entitled as a rental project, but convert to an ownership project at a subsequent time. Staff concurs with both concepts and recommends the following:

- **Recommendation:** Final legislation should **include a condominium conversion provision** to specify that **projects** converting to ownership projects must pay a **conversion fee** equivalent to the difference between the fee requirement for ownership projects in effect at the time of the conversion and the requirement the project satisfied at the time of entitlement. **Include provisions of Proposal A, with modifications.**

Requirement for the On-Site Alternative

Both proposals would amend the on-site requirement for larger projects. Proposal A would exceed the maximum economically feasible requirement recommended by the Controller. Proposal B would set the rate at the maximum of this range.

- **Recommendation:** Establish a requirement that is within the range of "maximum economically feasible" requirements recommended in the Controller's Study. **Include provisions of Proposal B without modification.** Specifically, this would establish an on-site rate of 18% or 20% for rental or ownership projects, respectively.

Requirement for the Affordable Housing Fee or Off-Site Alternative

Both proposals set the requirement for payment of the Affordable Housing Fee or off-site alternative for larger projects at the equivalent of the corresponding on-site requirement, with the exception that Proposal A's ownership fee rate would be slightly less costly to a project than the on-site alternative.

- **Recommendation:** Establish a requirement that is within the range of "maximum economically feasible" fee or off-site alternative requirements recommended in the Controller's Study. **Include provisions of Proposal B without modification.** Specifically, this would establish a fee or off-site rate of 23% or 28% for rental or ownership projects, respectively.

C. SCHEDULE OF ANNUAL INCREASES TO REQUIREMENTS

Both proposals would establish a schedule of annual increases to the percentage requirements, though under different conditions. This addition to the Inclusionary Program was recommended in the Controller's Study on the premise that phasing in an increase in the inclusionary requirement over time at a predictable rate would allow the land market to absorb the increase and remain economically viable for development; while securing higher levels of affordable housing production over time.

Staff recommends that final legislation include a schedule of annual increases that is consistent with the Controller's recommendation, with modifications:

- **Recommendation:** Final legislation should **establish an explicit maximum requirement** at which the schedule of increases would terminate, and that rate should be below the maximum requirement supported by the Nexus Study. **Include provisions of Proposal B without modification.**
- **Recommendation:** Final legislation should **establish that requirement rates be increased by 1.0 percentage point every two years.** This is equivalent to the Controller's recommendation of an increase of 0.5 percentage points per year, but would provide for a more effective and transparent implementation of the program by more closely matching the pace of the entitlement process and minimizing ambiguity in the rounding of requirement percentages. **Include provisions of Proposal B, with modifications.**

- **Recommendation:** The schedule of increases should commence no fewer than 24 months following the effective date of final legislation if the rate is set to increase biannually, or no fewer than 12 months following the effective date if the rate is set to increase annually. Under either ordinance, **final legislation should be amended accordingly.**

Determination and "Sunset" of Requirement

Both proposed ordinances include a "sunset" provision to specify the duration that a project's inclusionary requirement would be effective during the entitlement process. Proposal A does not specify at what point the requirement would be determined, but would establish that the requirement be reset if the project has not procured a first construction document within 2 years of entitlement. Proposal B would determine the requirement amount at the time of a project's Environmental Evaluation Application (EEA) and establish that the requirement be reset if the project has not received a first construction document within 3 years of entitlement. Both proposals would reset the requirement to the requirement applicable at the time, and not count time elapsed during potential litigation or appeal of the project.

- **Recommendation:** Final legislation should establish a "sunset" provision that is consistent with current practices for the determination of inclusionary requirements and Planning Department procedures. **Include provisions of Proposal B without modification.**

D. AFFORDABLE HOUSING FEE

Both proposals would modify the way the Affordable Housing Fee is applied to projects that elect to pay the fee, as well as the method used to calculate the dollar amount of the fee. The Controller's Study called for no specific changes to the application of or methodology for the fee, but did recommend that the fee amount should be maintained at a level that reflects the cost to construct affordable units.

Application of Fee

The Affordable Housing Fee is currently assessed on a per unit basis, with the fee amount increasing with the type of unit, ranging from studio to 4-bedroom units. This method of assessing the fee does not account for the actual size of units or the total area of the project.

- **Recommendation:** Final legislation should **apply the fee on a per gross square foot basis** so that the fee is assessed proportionally to the total area of the project. **Include provisions of Proposal B without modification.**

Calculation of Fee

The dollar amount of the fee is currently calculated based on the cost of construction of residential housing and the maximum purchase price for BMR ownership units. MOHCD is required to update the fee amount annually.

- **Recommendation:** Final legislation should direct MOHCD to calculate the fee to **match the actual cost to the City to construct below market rate units.** This cost should reflect the construction costs of units that are typically in MOHCD's below market rate pipeline, and should not vary based on the building type of the subject project. **Include provisions of Proposal B without modification.**

E. INCOME LEVELS

Currently, inclusionary units are designated as affordable at two discrete income tiers – units serving “low-income” or “moderate-income” households, as defined in Section 415. Both proposals would modify the income levels that inclusionary units are designated to serve. Specifically, both proposals would broaden the affordability requirements to serve households at a range of income levels within a defined range, or at specific tiers.

Either proposal would constitute a significant structural change in the way units are designated. Planning Department staff, in consultation with MOHCD, considered the City’s affordable housing need and existing housing programs to arrive at the following recommendations:

- **Recommendation:** Final legislation should establish affordability requirements that clearly apply to the maximum rent or maximum sale price of the inclusionary unit, and not to the income level of the household placed in that unit. This distinction is critical to ensure that MOHCD retains flexibility to both serve households that may earn significantly below the target level, and allow for households that make slightly more than the target level to remain eligible, as set forth in the MOHCD Procedures Manual, which will come before this Commission for review. Under either ordinance, **final legislation should be amended accordingly.**

- **Recommendation:** Final legislation should designate inclusionary units at three discrete affordability levels for larger projects to better serve households with incomes between the current low and moderate income tiers. This method would provide for a more even distribution of inclusionary units across eligible low and moderate income households, and minimize the coverage gap for household between the existing income tiers. **Include provisions of Proposal B, with modifications.**

- **Recommendation:** Final legislation should designate inclusionary units at a single affordability level for smaller projects. This recommendation reflects the scale of these smaller projects, which would in many cases provide fewer than three total inclusionary units. This requirement should be set to match the middle tier established for larger projects, as described below. **Include provisions of Proposal B, with modifications.**

In addition to the structural changes to how inclusionary units are designated, both proposals would also broaden the affordability levels served by the program to serve moderate and middle income households that are not currently served by any existing housing programs, and also are generally not served by market rate housing.

Staff compared existing and proposed affordability requirements to current data on the City’s affordable housing need and existing housing programs to recommend an appropriate range of affordability levels to be served by the Inclusionary Program. Note that, again, the requirements set forth in the Planning Code should stipulate the maximum rent or sale price of inclusionary units, while MOHCD will continue to exercise discretion in placing eligible households in the most appropriate affordable unit, as availability and individual household incomes allow.

- **Recommendation:** Final legislation should **target inclusionary units to serve the gap in coverage** between low-income households who can access other existing housing programs, and moderate and middle-income households earning less than the level needed to access market rate units. **Include provisions of Proposal B, with modifications**, as follows:

Smaller Projects (10 – 24 units)			
	Tier 1	Tier 2	Tier 3
Rental Projects	N/A	80% of AMI	N/A
Owner Projects	N/A	110% of AMI	N/A

Larger Projects (25 or more units)			
	Tier 1	Tier 2	Tier 3
Rental Projects	55% of AMI	80% of AMI	110% of AMI
Owner Projects	90% of AMI	110% of AMI	140% of AMI

For **rental projects**, these recommended affordability levels are intended to provide that:

- units at the low end of the range (Tier 1) supplement the supply of units affordable to low-income households currently served by other housing programs; and
- units at the high end of the range (Tier 3) would serve households earning above the level served by other housing programs, but below the level served by the market.

For **ownership projects**, these recommended affordability levels are intended to provide that:

- units at the low end of the range (Tier 1) serve households at the lowest income level possible, while still recognizing the significant financial burden (i.e. down payment, mortgage payments, HOA fees, etc.) required of homebuyer; and
- units at the high end of the range (Tier 3) would serve households earning above the level served by other housing programs, but not higher than the level for which data supports a clear affordability need and well below the level served by the market.

For both rental and ownership projects, the middle tier (Tier 2) would provide a mid-point for households earning above the low-income level, but below the middle-income level; accordingly, this tier is set closer to the lower tier to serve as a “stepping stone” for households with growing incomes, or households who earn slightly above the low-income level and are not served by other affordable housing programs or market rate units.⁹

⁹ Market rate rents and sale prices vary widely depending on location and building type. In developing the above recommendations, staff looked at a range of market rate rents and sale prices for recently built developments. For example, average market rents for one-bedroom units were observed to range from \$3,100 - \$4,200 per month, which would be affordable to the equivalent of a two-person household earning roughly 150% to 200% of AMI, respectively. These levels significantly exceed the income level of the moderate income households that would be served under the higher tier of the above recommendation. Similar analysis was conducted for two-bedroom units as well as for market rate condominium units, which were assumed to range from \$650,000 - \$1,100,000 for new one-bedroom units, depending on location, which would be affordable to the equivalent of roughly 200% to 350% AMI.

F. DENSITY BONUS PROVISIONS

The Controller's Study concluded that the use of the State Density Bonus Law would impact the outcomes of the Inclusionary Program, if eligible project sponsors who elect the on-site alternative also choose to seek and receive a State Bonus. The Controller's Study further concluded that it would not be reasonable to assume that all projects will utilize the State Bonus, or that if those projects would necessarily receive the maximum bonus allowed. Accordingly, the **Controller's recommendation was to set the inclusionary requirements at the economically feasible level not assuming use of the State Bonus**, and that projects that do receive a State Bonus should pay the Affordable Housing Fee on bonus units.

Proposal A's Inclusionary Ordinance is paired with the State Density Bonus Law. As the sponsoring Supervisors have described, this proposal achieves feasibility by partnering with the State Density Bonus Law. This means that development would not be feasible, according to the Controller's Study, unless the maximum density bonus is provided as allowed under state law (35%). This proposal encourages use of the state bonus law, which requires the City to grant project sponsors a wide range of concessions and waivers from local massing, height, bulk and other development controls, generally at the discretion of the sponsor.

Proposal B's Inclusionary Ordinance is paired with HOME-SF. Here, the sponsoring Supervisors have described that the project sponsors seeking increased density would be encouraged to use a local program (HOME-SF) that tailors the density bonus to San Francisco's local context and policy goals. The HOME-SF program would frame the bonus by providing specified options for how local massing, height, bulk and other development controls may be modified; and provide for a higher percentage of inclusionary affordable units for projects using the HOME-SF program; and also encourage greater production of family-friendly units and include small business protections. The pairing of these two proposals has been crafted in a way that intends to make projects feasible with or without the use of a density bonus.

- **Recommendation:** Final legislation should encourage the use of density bonuses to maximize the production of affordable housing. At the same time, because a density bonus may not be desired in every situation, **the inclusionary requirements established in Section 415 should be economically feasible regardless of whether a density bonus is exercised. Include provisions of Proposal B without modification.**
- **Recommendation:** The final Inclusionary ordinance should be paired with a local density bonus ordinance, such as the proposed HOME-SF Program, that provides increased density and other concessions similar to the State Density Bonus Law in a manner that is tailored to the San Francisco's contextual and policy needs. **Include provisions of Proposal B without modification.**

Additional Administrative Requirements for Density Bonus

Proposal A does not incorporate the Controller's recommendations, but would enact three additional administrative requirements for the Planning Department related to the use of the State Bonus. Staff recommends the following action on these proposed requirements:

- **Recommendation:** Final legislation should **direct the Planning Department to require "reasonable documentation" from project sponsors seeking a State Bonus** to establish eligibility for a requested density bonus, incentives of concession, and waivers or reductions of development standards, as provided for under state law. **Include provisions of Proposal A without modification.**
- **Recommendation:** Final legislation should **require the Planning Department to prepare an annual report on the use of the Density Bonus** to the Planning Commission beginning in January 2018 that details the number of projects seeking a bonus and the concessions, waivers, and level of bonus provided. **Include provisions of Proposal A without modification.**
- **Recommendation:** Final legislation should **not include a requirement to provide information about the value of the density bonus, concessions, and waivers sought by a project.** This proposal would be difficult and costly to implement, in particular because the Department may not be able to compel project sponsors to provide the type of financial information required to perform such analysis. **Do not include this provision of Proposal A.**

Affordable Housing Fee for Bonus Units

The Controller's Study sought to provide guidance as to how the Inclusionary Program should account for the use of the State Density Bonus, recognizing that the use of the program would vary widely based on specific project conditions while the Inclusionary Program establishes requirements that apply to eligible projects on a citywide basis.

The Controller recommended that projects that receive a State Bonus be required to pay the Affordable Housing Fee on any additional units authorized under the State Bonus, similar to how the City impose other impact fees for infrastructure and other City services.

- **Recommendation:** Final legislation should **require that projects pay the Affordable Housing Fee** on any additional units authorized by the State Bonus program. **Include provisions of Proposal B without modification.**

G. UNIT MIX REQUIREMENTS

Both proposals would establish new dwelling unit mix requirements, an area not addressed in the current Inclusionary Program. **Proposal A** would require that **on-site inclusionary units** contain a minimum of 40% of units as 2-bedroom units, and an additional minimum of 20% of on-site inclusionary units as 3-bedroom units or larger. **Proposal B** would require that all residential projects not already subject to the existing unit mix requirement in Plan Areas¹⁰ be subject to a new requirement that 25% of **total units** be provided as 2-bedroom units or larger, or that 10% of total units be provided as 3-bedroom units or larger.

¹⁰ In the RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use districts, the current requirement is for 40% of total project units to be provided as 2-bedroom units or larger, or for 30% of total project units to be provided as 3-bedroom units or larger.

- **Recommendation:** Dwelling unit mix requirements should **apply to total project units, not only to on-site inclusionary units** to allow for inclusionary units to be provided comparable to market rate units, as required in Section 415 and under both Ordinances. Under either ordinance, **final legislation should be amended accordingly.**

Both proposals are intended to increase the supply of housing units that serve the needs of family households, particularly households with children. The Controller's Study did not examine this issue specifically. However, the economic analysis underlying the Study's feasibility conclusions did reflect development prototypes that fulfilled the Plan Area unit mix requirement by including 35% of units at 2-bedroom units, and 5% of units as 3-bedroom units, for a total of 40% of total project units.

- **Recommendation:** Final legislation **should not set unit mix requirements that would exceed the 40% total large unit requirement** already in place in Plan Areas, and assumed in the Controller's feasibility conclusions. This is a recommendation for a parameter to guide final legislation. **Proposal A does not meet this parameter. Proposal B meets this parameter.**
- **Recommendation:** Dwelling mix requirements should be set in a manner that would **yield a mix of both 2-bedroom and 3-bedroom units**; this may be best achieved by setting a minimum requirement for 3-bedroom units within the large unit requirement. This is a recommendation for a parameter to guide final legislation. **Proposal A meets this parameter. Proposal B does not meet this parameter.**

In addition, Planning Department staff has conducted preliminary analysis on the demographic composition of family households in San Francisco and of the unit mix in the City's existing housing stock and recent development pipeline. While this research is not complete, the preliminary findings suggest:

- 10% of San Francisco households are **families with 2 or more children**, who may be more likely to need a 3-bedroom or larger unit.
- 14% of San Francisco households are **families with 4 or more people**, including families with children *and* families without children, who may be more likely to need a 3-bedroom or larger unit.

Finally, it should also be noted that there may be affordability trade-offs to dwelling unit mix requirements. Larger units will be, at least in the first several years of building occupancy, less affordable to households with fewer than two income earners. The City does not have the ability to require that larger units be made available for family households; data suggest that the majority of larger units are currently not occupied by family households. The Department's recommendations largely focus on maximizing affordability. These recommendations have an unknown impact on affordability and are therefore only provided as "parameters" for final legislation that seek to balance the goals of maximizing affordability with the goal of providing units with more bedrooms.

H. "GRANDFATHERING" PROVISIONS

Following the passage of Proposition C in June 2016, Section 415 was amended to establish incremental on-site, off-site, and fee requirement percentages for projects that entered the development pipeline between January 2013 and January 2016 (as defined by the acceptance date of the project's Environmental Evaluation Application or EEA). Projects that entered the pipeline prior to January 2013 are subject to the inclusionary rates in effect prior to the passage of Proposition C¹¹, while those that entered the pipeline after January 12, 2016 will be subject to the final requirements to be established by the proposed Ordinances.

Incremental Increases for Pipeline Projects

Smaller Projects (10 – 24 units) were unaffected by the passage of Proposition C and remain subject to the on-site and off-site or fee requirements in place prior to Proposition C.

- **Recommendation:** Smaller Projects should remain subject to "grandfathered" on-site and fee or off-site requirements. Both Ordinances would maintain this structure. **No amendments are needed.**

¹¹ As of January 1, 2016 Section 415 required that projects of 10 or more units provide 12% of units on-site as low income units, or pay a fee or provide off-site units equivalent of 20% of the project total.

Larger Projects (25 or more units) that entered the pipeline between 2013 and 2016 are subject to the incremental increases established by Proposition C. However, in some cases these rates exceed the maximum economically feasible rate identified by the Controller's Study and should be retained or amended as follows:

- **Recommendation:** Larger Projects (25 or more units) choosing the **on-site alternative** should remain subject to the incremental percentage requirements established by Proposition C. **Include provisions of Proposal B without modification.**
- **Recommendation:** The incremental increases established for Larger Projects choosing the **fee or off-site alternatives**, however, exceed the maximum feasible rate; these requirements should be amended to match the permanent requirements established in the final legislation, which should not exceed the feasible rate. **Include provisions of Proposal B without modification.**

Area-Specific Inclusionary Requirements

Additional incremental increases were also established for Larger Projects that entered the development pipeline between 2013 and 2016 in the Eastern Neighborhoods Urban Mixed Use (UMU) districts. Projects in these districts are subject to the specific inclusionary requirements established in Section 419 of the Planning Code to reflect the zoning modifications implemented through the Eastern Neighborhoods Area Plan. In some cases, these incremental increases exceed the maximum feasible rate.

- **Recommendation:** The incremental increases established by Proposition C for Larger Projects that entered the pipeline before 2016 and are located in UMU districts should be removed, leaving the area-specific requirements of Section 419 in place for these projects. **Include provisions of Proposal B without modification.**

Additionally, final legislation should make clear that for projects in UMU districts that enter the pipeline after January 12, 2016 whether area-specific or citywide inclusionary requirements apply.

- **Recommendation:** Final legislation should explicitly establish that projects in UMU districts that entered the pipeline after January 12, 2016 **should be subject to the higher of the on-site, fee, or off-site requirements** set forth in Section 419 or the citywide requirements in Section 415, as established by final legislation. Under either ordinance, **final legislation should be amended accordingly.**

Additional Provisions

The “grandfathering” provisions of Proposition C only addressed the requirement rates and did not specify when other features of the inclusionary program would be applicable (e.g. income level targets) to projects in the entitlement process. Given the additional changes to the inclusionary program proposed in both ordinances, staff recommends as follows:

- **Recommendation:** Final legislation should **establish that all other Section 415 provisions will apply to pipeline projects**, regardless of the acceptance date of the project’s EEA; projects that were fully entitled prior to the effective date of final legislation would be subject to the inclusionary requirements in effect at the time of entitlement. Under either ordinance, **final legislation should be amended accordingly.**

A comparison table of current and recommended “grandfathering” and UMU districts requirements is provided as Exhibit D.

V. ENVIRONMENTAL REVIEW

On March 1, 2017 the Environmental Review Officer determined that the legislation filed by Supervisors Kim and Peskin [Board File No. 161351] is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

On March 7, 2017 the Environmental Review Officer determined that the legislation filed by Supervisors Safai, Breed, and Tang [Board File No. 170208] is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

VI. PUBLIC COMMENT

As of the date of publication the Planning Department has received written public comment on the proposed amendments, as well as extensive public comment provided at the Planning Commission informational hearings on February 23 and March 16, 2017.

The bulk of the concerns raised in these hearings were focused on the income levels to be served by the program, the inclusionary requirement percentages, and the impact of the State Density Bonus Law on the program.

Most speakers addressed the income levels at which inclusionary units should be designated, and many urged that the program should primarily serve the needs of low-income households as provided for by other existing affordable housing programs, and that the expansion of the inclusionary program to serve low- and moderate-income households above this level be limited to the levels established by Proposition C. Many speakers also highlighted the growing need for housing affordable to moderate-income households who have traditionally been served by market rate units, but who have also struggled to find affordable housing in recent years. Many also shared their personal experience being unable to find adequate housing in San Francisco either because they could not afford market rate rents, were unable to access the limited supply of affordable units, or because they earned too much to qualify for available affordable units, but not enough to access market rate units.

Regarding the inclusionary requirement percentages, speakers generally advocated for a higher inclusionary rate than that in place prior to Proposition C, but differed on how the conclusions

and recommendations of the Controller's Study and legal limits supported by the City's Nexus Study should be applied to the inclusionary program. Many speakers expressed that the rate should be as high as economically possible, while many others felt that the rates should be set higher than the maximum rates recommended in the Controller's Study.

In particular, many commenters focused on the impact of the State Density Bonus Law on the inclusionary program. Generally, those who felt the Bonus Law would result in most San Francisco developments receiving significant density bonuses supported higher inclusionary rates, while others cautioned that the requirements should avoid imposing too high a requirement and thus become ultimately ineffective.

Written comment was also received during and subsequently to recent hearings, and is attached as Exhibit E. At the February 23 hearing several speakers presented data on household income levels. In addition, a letter was presented from the Council of Community Housing Organizations which posed a series of important questions for consideration by Commissioners, which generally match the topic areas addressed in the accompanying staff report to the hearing. Most notably, the letter advised that the availability of the State Density Bonus Law should support higher inclusionary rates than those recommended in the Controller's Study; that requirements should increase over time at the higher end of the range discussed by the Controller's Technical Advisory Committee; that moderate-income households should be served by the inclusionary program, but not at the expense of low-income households; that the program should be structured to discourage projects to "fee out"; and that the more two- and three-bedroom units should be provided to meet the needs of family households.

At the March 16 hearing a document titled "Statement of Principles on Inclusionary Housing" was presented on behalf of about two-dozen listed organizations. The statement focused on concerns that the inclusionary program should continue to prioritize housing for low-income households at the income levels historically served by the program, and served by other existing housing programs. While recognizing the struggle of middle income households to find affordable housing, the statement urged that the inclusionary program not be expanded to serve these households beyond the levels established in Proposition C.

In addition, the Planning Department received a letter addressed to the Mayor and Board of Supervisors dated April 10 from Yimby Action. The letter expressed opposition to both proposed ordinances based on concerns related to the methodology of the Controller's Economic Feasibility Study and Nexus Study, and proposed that modifications to the inclusionary program be postponed until these analyses can be revised.


**CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST**

1390 Market Street, Suite 1150, San Francisco, CA 94102
(415) 552-9292 FAX (415) 252-0461

File Nos. 150969
161351
170208

Policy Analysis Report

5/8

To: Supervisor Peskin
From: Budget and Legislative Analyst's Office 
Re: Statistics on Median Household Income Across San Francisco Neighborhoods
Date: May 5, 2017

Summary of Requested Action

Your office requested that the Budget and Legislative Analyst gather information on the median household income across San Francisco neighborhoods by ethnicity and household type. Your office also requested that the Budget and Legislative Analyst compare the average rent paid by San Francisco residents with median household income by neighborhood.

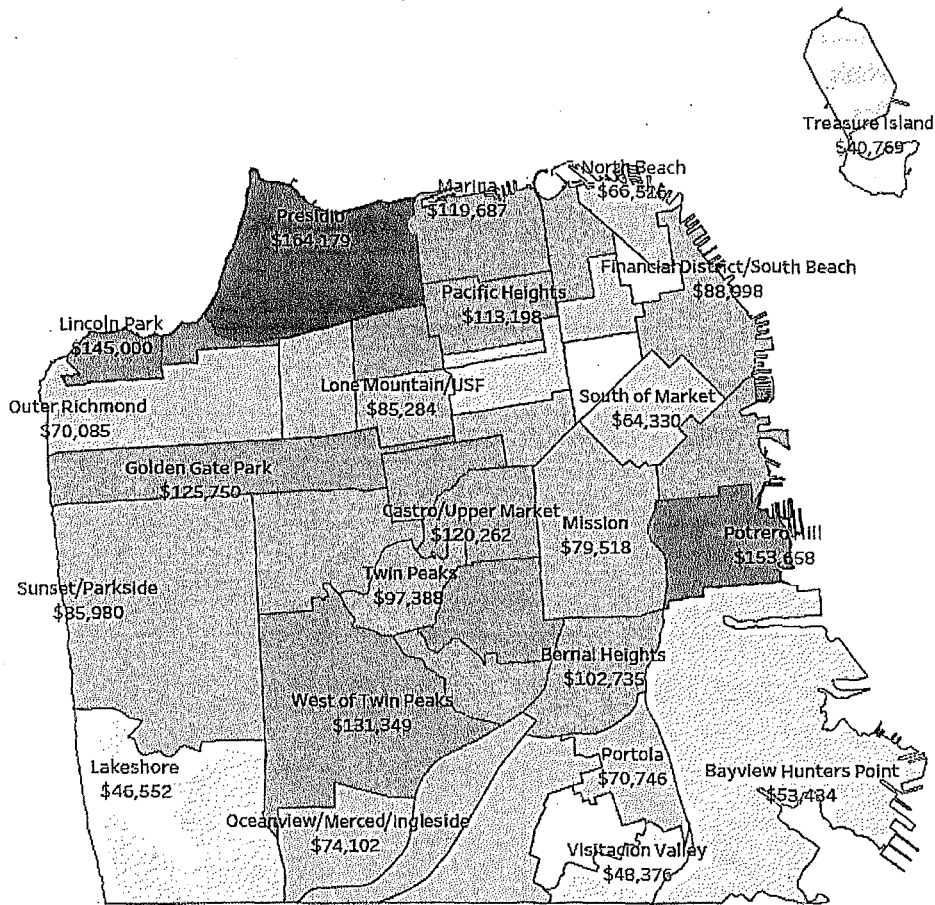
For further information about this report, contact Severin Campbell at the Budget and Legislative Analyst's Office.

Project Staff: Jennifer Millman, Latoya McDonald, and Severin Campbell

Disparities in Median Household Income Across City Neighborhoods

While rising housing costs in San Francisco have been accompanied by an estimated 31.8 percent increase in median household income from \$69,894 in 2011 to \$92,094 in 2015; there has been an unequal distribution of household income across City neighborhoods, and particularly among different ethnicities. Figure 1 below shows the disparity in median household income by neighborhood using the 39 neighborhoods identified by the Department of Public Health, the Mayor’s Office of Housing and Community Development, and the San Francisco Planning Department.¹ In addition to these geocoded neighborhood locations, the Budget and Legislative Analyst used the American Community Survey 2015 five-year estimates to review median household income across neighborhoods in the County of San Francisco.

Figure 1. Median Household Income across San Francisco Neighborhoods



Source: American Community Survey 2015 five-year estimates.

¹ While this data represents reasonable estimates of San Francisco neighborhood boundaries, there are areas in need of improvement in the data. For example, Golden Gate Park and Lincoln Park were identified as high-income neighborhoods even though they are public parks. For this reason, the Budget and Legislative Analyst did not include the statistics for the Golden Gate Park and Lincoln Park in this analysis.

From 2011 to 2015, on average, the 10 neighborhoods with the lowest median household incomes earned 33.3 percent of the income earned by the 10 neighborhoods with the highest median household income in San Francisco, as shown in Figure 2 below. The neighborhoods with the highest median household income, on average, from 2011 to 2015 include the Presidio, Potrero Hill, Sea Cliff, West of Twin Peaks and Noe Valley. The poorest neighborhoods include the Tenderloin, Chinatown, McLaren Park, and Lakeshore.

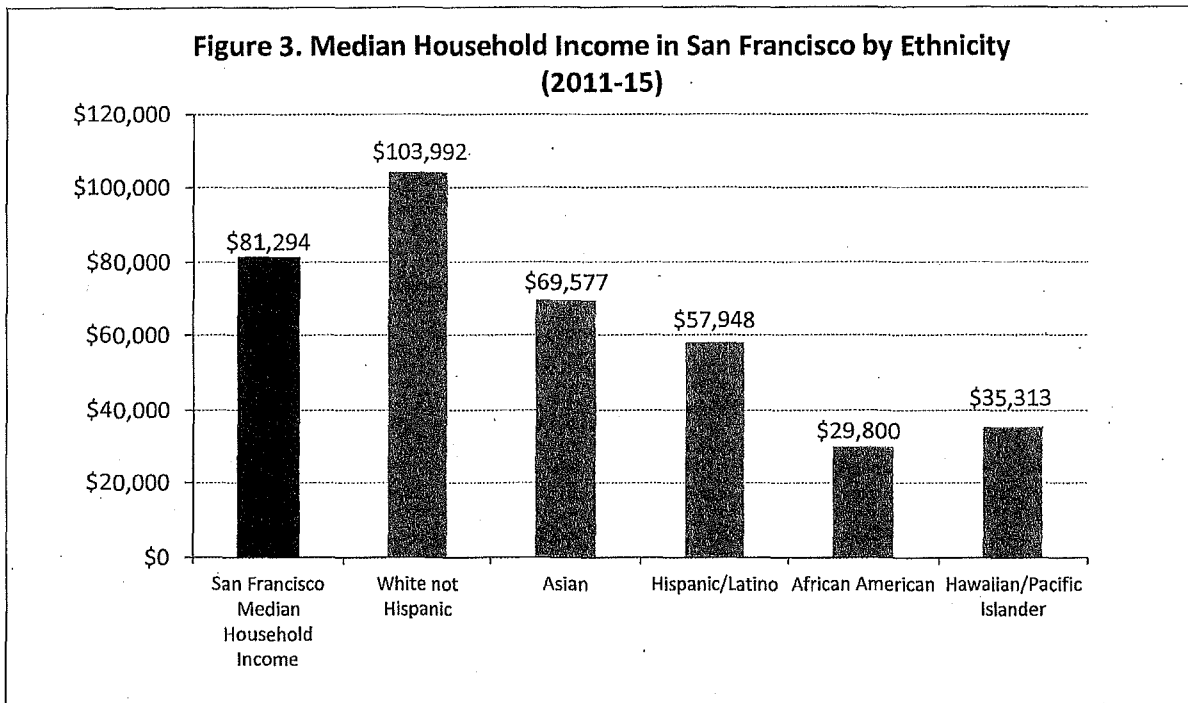
Figure 2. Neighborhoods with the Highest and Lowest Median Household Incomes

Highest Median Household Incomes			Lowest Median Household Incomes		
Neighborhood	Median Household Income	Population Count	Neighborhood	Median Household Income	Population Count
Presidio	\$164,179	3,681	South of Market	\$64,330	18,093
Potrero Hill	\$153,658	13,621	Japantown	\$63,423	3,633
Seacliff	\$143,864	2,491	Western Addition	\$59,709	21,366
West of Twin Peaks	\$131,349	37,327	Bayview Hunters Point	\$53,434	37,246
Noe Valley	\$131,343	22,769	Visitacion Valley	\$48,376	17,793
Presidio Heights	\$123,312	10,577	Lakeshore	\$46,552	13,469
Haight Ashbury	\$120,677	17,758	Treasure Island	\$40,769	3,187
Castro/Upper Market	\$120,262	20,380	Tenderloin	\$25,895	28,820
Marina	\$119,687	24,915	Chinatown	\$21,016	14,336
Pacific Heights	\$113,198	24,737	McLaren Park	\$16,638	880
Total		178,256			158,823

Source: American Community Survey 2015 five-year estimates.

Variation in Household Income across Ethnicities in San Francisco

The Budget and Legislative Analyst also observed a variation in median household income across the diverse ethnicities represented in San Francisco during 2011-15. As shown in Figure 3 below, the earnings of white households far outpace that of other ethnicities with African American and Hawaiian/Pacific Islander households in San Francisco earning the lowest median household incomes.



Source: American Community Survey 2015 five-year estimates.

Neighborhood-Level Household Income Conceals Rent Burden across Ethnicities

Rent burden is defined as instances where an individual or household spends more than 30 percent of their income on housing costs. Of the 39 City neighborhoods identified, only 12 spent more than 30 percent of their median household income on rental housing costs, as per data collected from the American Community Survey. These 12 neighborhoods represent the areas with the lowest median household income and account for 41.5 percent of all San Francisco residents on average during 2011 to 2015, as shown in Figures 4 and 5 below.²

The low number of City neighborhoods with rent burden is in part due to higher income ethnicities skewing the overall median household income of specific City neighborhoods. The Budget and Legislative Analyst found that there are significant disparities in median household income across ethnicities, even within the same neighborhood. For example, Potrero Hill has the second highest median household income in the City at \$153,658. However, the high incomes of White and Asian households in Potrero Hill (\$168,011 and \$143,206, respectively) conceal the low incomes of African Americans (\$58,368) and the Hispanic/Latino households (\$61,049) in Potrero Hill. Because White and Asian households represent the majority of the Potrero Hill population, using neighborhood-level household income conceals other populations that are struggling with rent burden. Figure 5 below shows median household income by neighborhood and ethnicity with gross rent paid while Figure 6 below shows the population of the various ethnicities represented in each San Francisco neighborhood.

² The rent burden percentages shown in Figures 4 and 5 below were taken from the American Community Survey 2015 five-year estimates.

Type of Households across San Francisco Neighborhoods

Given time constraints and the data available, the Budget and Legislative Analyst was unable to stratify San Francisco neighborhoods by the type of households (family or non-family) represented. However, during 2011 to 2015, 45.8 percent or 161,887 of all 353,287 San Francisco households were family households.³ Family households include married couples or non-married family members residing in the same household. The remaining 54.2 percent of households in San Francisco during this time were non-family households, which include single persons and groups of individuals who are not related.

³ American Community Survey 2015 five-year estimates

Figure 4. Rent Burden across San Francisco Neighborhoods

	Percent Rent Burden (%)	Median Gross Rent	Median Household Income	Population	Percent of Total
Lakeshore	43.9	\$1,800	\$46,552	13,469	2%
Visitacion Valley	38.9	\$1,071	\$48,376	17,793	2%
Oceanview/Merced/Ingleside	38.1	\$1,570	\$74,102	28,261	3%
Portola	37.6	\$1,625	\$70,746	16,269	2%
Outer Mission	37.1	\$1,549	\$76,643	23,983	3%
Bayview Hunters Point	36.9	\$1,217	\$53,434	37,246	4%
Excelsior	36.5	\$1,525	\$68,550	39,640	5%
Tenderloin	35.7	\$886	\$25,895	28,820	3%
Chinatown	33.3	\$605	\$21,016	14,336	2%
Treasure Island	32.3	\$1,732	\$40,769	3,187	0%
Sunset/Parkside	32.2	\$1,847	\$85,980	80,525	10%
Outer Richmond	30.6	\$1,588	\$70,085	45,120	5%
Subtotal				348,649	41%
Japantown	29.5	\$1,500	\$63,423	3,633	0%
South of Market	29.3	\$1,180	\$64,330	18,093	2%
McLaren Park	28.6	\$267	\$16,638	880	0%
Nob Hill	28.4	\$1,425	\$64,845	26,382	3%
Glen Park	28.3	\$1,665	\$113,039	8,119	1%
Twin Peaks	28.1	\$900	\$97,388	7,310	1%
Western Addition	27.4	\$1,295	\$59,709	21,366	3%
Inner Richmond	27.1	\$1,602	\$78,836	22,425	3%
Bernal Heights	27.0	\$1,733	\$102,735	25,487	3%
Financial District/South Beach	26.8	\$1,872	\$88,998	16,735	2%
North Beach	26.7	\$1,575	\$66,526	12,550	1%
Lone Mountain/USF	26.4	\$1,654	\$85,284	17,434	2%
Mission	25.7	\$1,472	\$79,518	57,873	7%
Mission Bay	25.5	\$2,774	\$107,798	9,979	1%
Seacliff	25.1	\$2,196	\$143,864	2,491	0%
Inner Sunset	25.1	\$1,829	\$102,993	28,962	3%
West of Twin Peaks	25.0	\$2,302	\$131,349	37,327	4%
Presidio Heights	24.9	\$1,950	\$123,312	10,577	1%
Hayes Valley	24.8	\$1,552	\$82,915	18,043	2%
Presidio	23.7	\$2,963	\$164,179	3,681	0%
Pacific Heights	23.6	\$1,987	\$113,198	24,737	3%
Castro/Upper Market	23.3	\$1,840	\$120,262	20,380	2%
Haight Ashbury	23.2	\$1,922	\$120,677	17,758	2%
Russian Hill	22.6	\$1,864	\$106,953	18,179	2%
Noe Valley	22.3	\$2,091	\$131,343	22,769	3%
Marina	21.3	\$1,928	\$119,687	24,915	3%
Potrero Hill	19.2	\$2,289	\$153,658	13,621	2%
Subtotal				491,706	59%
Total				840,355	100%

Source: American Community Survey 2015 five-year estimates.

Median Rent as a Percentage of Gross Income
Greater than 30% considered "Rent Burden"

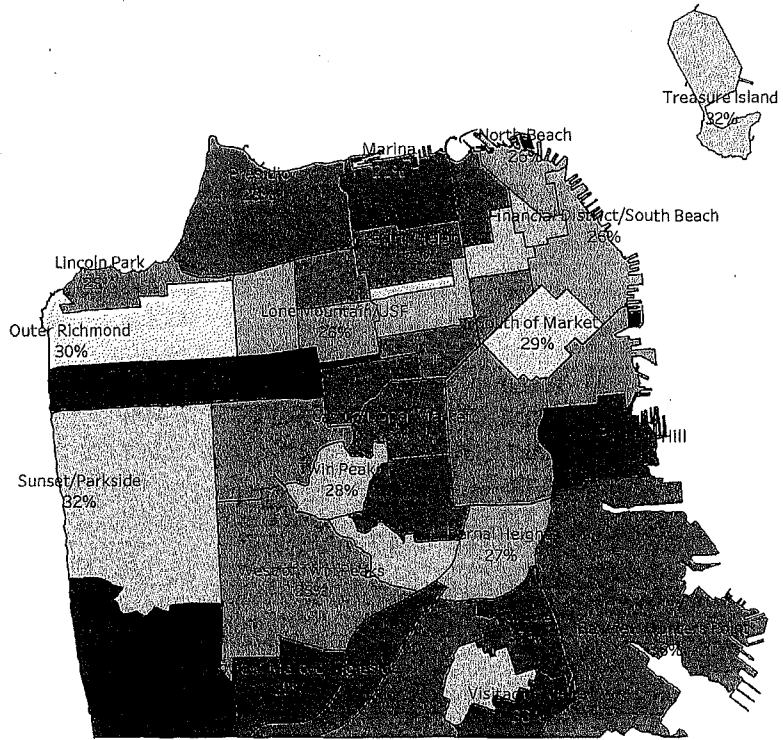


Figure 6. Median Household Income by City Neighborhood and Ethnicity

	Population	Median Gross Rent	Median Gross Rent as % of Income	Median Household Income	White not Hispanic	Hispanic/ Latino	African American	Asian
Lakeshore	13,469	1,800	38.9	\$46,552	\$45,581	\$41,979	\$45,139	\$28,369
Visitacion Valley	17,793	1,071	38.1	\$48,376	\$47,567	\$24,844	\$15,872	\$55,987
Oceanview/Merced/Ingleside	28,261	1,570	38.1	\$74,102	\$92,496	\$71,108	\$52,353	\$80,154
Portola	16,269	1,625	37.6	\$70,746	\$55,848	\$57,759	\$11,406	\$73,089
Outer Mission	23,983	1,549	37.1	\$76,643	\$78,777	\$60,928	\$0	\$82,414
Bayview Hunters Point	37,246	1,217	36.9	\$53,434	\$103,428	\$40,709	\$34,547	\$58,239
Excelsior	39,640	1,525	36.5	\$68,550	\$68,873	\$67,218	\$33,969	\$69,165
Tenderloin	28,820	886	35.7	\$25,895	\$27,641	\$19,933	\$9,441	\$27,183
Chinatown	14,336	605	33.3	\$21,016	\$71,252	\$0	\$0	\$18,962
Treasure Island	3,187	1,732	32.3	\$40,769	\$67,500	\$26,591	\$29,464	\$0
Sunset/Parkside	80,525	1,847	32.2	\$85,980	\$90,474	\$34,178	\$0	\$86,139
Outer Richmond	45,120	1,588	30.6	\$70,085	\$75,280	\$45,971	\$19,460	\$71,278
Japantown	3,633	1,500	29.5	\$63,423	\$84,643	\$93,750	\$0	\$24,500
South of Market	18,093	1,180	29.3	\$64,330	\$111,036	\$21,807	\$15,111	\$71,413
Grand Total	840,763	1,624	29.1	\$84,578	\$97,648	\$52,792	\$16,816	\$79,462
McLaren Park	880	267	28.6	\$16,638	\$0	\$40,250	\$0	\$15,469
Nob Hill	26,382	1,425	28.4	\$64,845	\$82,605	\$25,124	\$18,528	\$49,001
Glen Park	8,119	1,665	28.3	\$113,039	\$141,017	\$54,063	\$0	\$46,193
Twin Peaks	7,310	900	28.1	\$97,388	\$101,066	\$83,523	\$40,235	\$87,326
Western Addition	21,366	1,295	27.4	\$59,709	\$75,271	\$28,987	\$12,156	\$56,009
Inner Richmond	22,425	1,602	27.1	\$78,836	\$105,050	\$48,968	\$0	\$50,350
Bernal Heights	25,487	1,733	27.0	\$102,735	\$135,993	\$37,182	\$21,334	\$112,022
Financial District/South Beach	16,735	1,872	26.8	\$88,998	\$87,627	\$0	\$0	\$95,140
North Beach	12,550	1,575	26.7	\$66,526	\$91,456	\$26,201	\$3,507	\$59,720
Lone Mountain/USF	17,434	1,654	26.4	\$85,284	\$90,247	\$81,131	\$42,116	\$67,232
Lincoln Park	330	2,250	25.8	\$145,000	\$134,688	\$0	\$0	\$181,500
Mission	57,873	1,472	25.7	\$79,518	\$107,952	\$54,288	\$10,503	\$59,396
Mission Bay	9,979	2,774	25.5	\$107,798	\$124,740	\$65,985	\$0	\$106,674
Seacliff	2,491	2,196	25.1	\$143,864	\$145,938	\$0	\$0	\$121,607

	Population	Median Gross Rent	Median Gross Rent as % of Income	Median Household Income	White not Hispanic	Hispanic/ Latino	African American	Asian
Inner Sunset	28,962	1,829	25.1	\$102,993	\$106,813	\$80,168	\$25,625	\$103,398
West of Twin Peaks	37,327	2,302	25.0	\$131,349	\$140,962	\$101,192	\$21,759	\$129,001
Presidio Heights	10,577	1,950	24.9	\$123,312	\$122,398	\$0	\$84,120	\$110,692
Hayes Valley	18,043	1,552	24.8	\$82,915	\$92,903	\$52,904	\$13,100	\$119,075
Presidio	3,681	2,963	23.7	\$164,179	\$164,821	\$0	\$0	\$237,292
Pacific Heights	24,737	1,987	23.6	\$113,198	\$119,804	\$76,977	\$8,558	\$102,154
Castro/Upper Market	20,380	1,840	23.3	\$120,262	\$124,346	\$142,309	\$18,501	\$81,608
Haight Ashbury	17,758	1,922	23.2	\$120,677	\$122,991	\$48,673	\$0	\$150,108
Russian Hill	18,179	1,864	22.6	\$106,953	\$129,661	\$54,239	\$0	\$64,153
Noe Valley	22,769	2,091	22.3	\$131,343	\$129,740	\$87,549	\$11,875	\$163,324
Marina	24,915	1,928	21.3	\$119,687	\$121,132	\$105,228	\$0	\$81,398
Potrero Hill	13,621	2,289	19.2	\$153,658	\$168,011	\$61,049	\$58,368	\$143,206
Golden Gate Park	78	1,772	18.2	\$125,750	\$126,167	\$0	\$0	\$0
Total	840,355							

Source: American Community Survey 2015 five-year estimates.

Figure 7. Representation of Ethnicities across San Francisco Neighborhoods

	Total Population	White not Hispanic	African American	Native American	Asian	Pacific Islander	Other Race	Two or More Races	Hispanic or Latino (any race)
Sunset/Parkside	80,525	27,422	669	88	46,956	106	1,596	3,688	5,122
Mission	57,873	34,130	1,773	430	7,587	139	10,715	3,099	22,707
Outer Richmond	45,120	19,988	808	74	20,330	369	1,029	2,522	3,337
Excelsior	39,640	11,222	943	284	19,589	97	6,058	1,447	12,460
West of Twin Peaks	37,327	20,293	1,222	28	12,574	81	1,180	1,949	3,977
Bayview Hunters Point	37,246	6,280	10,302	164	13,267	955	3,988	2,290	8,255
Inner Sunset	28,962	16,954	563	69	8,906	0	984	1,486	2,427
Tenderloin	28,820	12,084	2,827	222	9,027	48	3,423	1,189	6,679
Oceanview/ Merced/ Ingleside	28,261	5,993	3,823	191	14,787	97	2,161	1,209	4,552
Nob Hill	26,382	14,523	771	62	8,981	70	746	1,229	2,720
Bernal Heights	25,487	15,145	1,243	98	4,071	20	3,353	1,557	7,490
Marina	24,915	20,582	253	20	2,715	15	273	1,057	1,868
Pacific Heights	24,737	18,948	801	2	3,956	63	316	651	1,524
Outer Mission	23,983	5,994	309	99	12,555	40	4,117	869	7,375
Noe Valley	22,769	17,327	650	93	3,092	64	630	913	2,463
Inner Richmond	22,425	12,290	453	18	8,183	63	349	1,069	1,746
Western Addition	21,366	9,324	4,346	222	5,735	29	722	988	2,081
Castro/Upper Market	20,380	16,161	595	102	2,192	48	523	759	1,953
Russian Hill	18,179	11,534	170	0	5,577	13	461	424	957
South of Market	18,093	6,791	2,222	66	7,142	79	930	863	1,900
Hayes Valley	18,043	11,770	2,425	80	2,176	95	706	791	2,679
Visitacion Valley	17,793	1,930	2,324	65	10,114	603	1,988	769	3,322
Haight Ashbury	17,758	14,333	551	53	1,474	27	233	1,087	1,502
Lone Mountain/USF	17,434	10,585	1,196	11	3,937	124	636	945	2,221
Financial District/ South Beach	16,735	9,327	310	31	5,794	21	461	791	2,091
Portola	16,269	3,540	737	63	9,229	7	2,329	364	3,893
Chinatown	14,336	2,155	108	73	11,603	9	235	153	519
Potrero Hill	13,621	9,047	762	21	2,253	70	768	700	2,117
Lakeshore	13,469	6,645	912	35	3,836	24	1,120	897	2,115
North Beach	12,550	6,501	117	0	4,826	0	253	853	1,105
Presidio Heights	10,577	7,318	266	1	2,250	73	127	542	683
Mission Bay	9,979	4,230	509	0	4,382	0	619	239	1,083
Glen Park	8,119	5,625	520	20	1,123	0	435	396	1,010
Twin Peaks	7,310	5,032	314	16	1,142	17	380	409	1,020
Presidio	3,681	3,222	0	0	310	0	13	136	214
Japantown	3,633	2,117	205	0	1,166	0	54	91	281
Treasure Island	3,187	1,191	593	53	545	62	411	332	909
Seacliff	2,491	1,757	13	0	580	0	15	126	165
McLaren Park	880	91	186	0	391	121	46	45	87
Total	840,355	409,401	46,791	2,854	284,353	3,649	54,383	38,924	128,609
Percent of Total Population	100%	49%	6%	0.3%	34%	0.4%	6%	5%	15%

Source: American Community Survey 2015 five-year estimates.

From: Board of Supervisors, (BOS)
Sent: Monday, May 15, 2017 8:35 AM
Subject: FW: Upcoming workforce housing legislation--in support of Safai, Breed and Tang proposal. File No. 170208

From: Linda Stark Litehiser [mailto:linda.litehi@gmail.com]
Sent: Sunday, May 14, 2017 8:25 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Upcoming workforce housing legislation--in support of Safai, Breed and Tang proposal.

Dear members of the board, I wanted to go on record in support of the Inclusionary Housing legislation proposed by Supervisors- Safai, Breed and Tang. I have studied the proposal as well as the competing proposal and feel that the Safai, Breed and Tang proposal is far superior for our city at this time.

I will try to come to testify in person but wanted to be sure that my support was noted. For too long our working families have been driven out of the city by the high cost of housing. My husband and I have four children and all of them have been forced to leave San Francisco, the place of their birth for other locations. Had housing that focused on reasonable costs for working families been available, I have no doubt that several of them would be living near us today. There needs to be a mix of housing affordability standards and this is legislation that could make that happen.

Best regards, Linda

--
Linda Stark Litehiser
78 Havelock St. San Francisco, CA 94112
District 11
415-585-8005

Somera, Alisa (BOS)

From: Board of Supervisors, (BOS)
Sent: Monday, May 08, 2017 8:44 AM
Subject: FW:

From: lgpetty@juno.com [mailto:lgpetty@juno.com]
Sent: Saturday, May 06, 2017 7:29 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject:

To All Supervisors

Re: Land Use Committee May 8, 2017

Item #2 150969 Affordable Housing Bonus Program

and #3 170208 Inclusionary Affordable Housing Fee & Dwelling Unit Mix Requirements

PLEASE DO NOT COMBINE THESE TWO ITEMS IN ANY WAY.

3 involves a Charter mandate from the voters and must be kept as separate legislation with the mandate being followed as closely as possible in the new legislation regarding the same ratio of low income units to middle income units as that approved by the voters. DO NOT REVERSE THE RATIO. To do so would be a colossal betrayal of the public trust!!

#2 must be considered as separate legislation and NOT COMBINED WITH or SUBSTITUTED FOR or SUPERSEDING any other density bonus legislation.

I believe that the ratio of affordable housing units for the Item 2 Bonus Density proposal should be the same as that approved by the voters under Prop C. and set by the whole Board under Prop C Inclusionary Affordable Housing.

Thank you.
Lorraine Petty
District 5 Voter
Senior & Disability Action member
D5 Action member

From the Bible: One Cup of This Burns Belly Fat Like Crazy!

Biblical Belly Breakthrough

<http://thirdpartyoffers.juno.com/TGL3132/590e86c722eb76c66de9st03duc>

Somera, Alisa (BOS)

From: Board of Supervisors, (BOS)
Sent: Monday, May 08, 2017 11:41 AM
To: BOS-Supervisors; Somera, Alisa (BOS)
Cc: Jhenders@sonic.net
Subject: FW: HVNA T & P Letter Regarding Inclusionary Housing Ordinance - File No. 170208
Attachments: 2017 05 03 HVNA T & P BMR Letter to London.pdf

Hello,

Please add this letter to File No. 170208.

Thank you.

-----Original Message-----

From: Jason M Henderson [mailto:Jhenders@sonic.net]
Sent: Monday, May 08, 2017 11:17 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: Norman.Yee.BOS@sfgov.org; Farrell, Mark (BOS) <mark.farrell@sfgov.org>; Cohen, Malia (BOS) <malia.cohen@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@SFGOV1.onmicrosoft.com>; Ronen, Hillary <hillary.ronen@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Sheehy, Jeff (BOS) <jeff.sheehy@sfgov.org>; Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>
Subject: HVNA T & P Letter Regarding Inclusionary Housing Ordinance

Dear Ms. Calvillo,

Attached is a letter regarding the Inclusionary Housing Ordinance going before the Board of Supervisors. A printed copy has been delivered to President Breed. We'd like for this to be included in the file for the ordinance. I've cc'd the supervisors who haven't yet received a copy.

Thank you very much.

-Jason Henderson

Chair, Hayes Valley Neighborhood Association Transportation & Planning Committee.

--

Jason Henderson
San Francisco CA
94102



The HAYES VALLEY *Neighborhood Association* | HVNA

May 3rd, 2017

President London Breed
San Francisco Board of Supervisors

RE: Below Market Rate Housing Policy and Inclusionary Housing Ratios

Dear London,

The Hayes Valley Neighborhood Association's Transportation & Planning Committee, as demonstrated in the Market and Octavia Better Neighborhoods Plan, has long supported housing policies that enable people of diverse incomes to live and work in our community. This point was re-affirmed at our January board and community retreat and affordability was raised as the most important issue facing our community.

HVNA has been observing the dialogue and various inclusionary housing proposals brought before the supervisors recently. We are troubled that our organization, one of those organizations that embraces high-density housing and inclusionary housing onsite, has not been a part of these discussions for D5 and beyond and particularly the HUB.

We have concerns about a proposal that reduces the increment of low and moderate income BMR's when compared to a more inclusionary proposal, both of which are now before the Board of Supervisors. While we recognize the need for a housing policy that helps middle class and upper middle class families (households making 110-140% of AMI), we do not wish to see that subsidy come at the expense of much-needed lower income housing.

HVNA's T & P Committee endorses the proposal for 24% BMR in new large rental developments with density bonus and is comfortable with the split between low income (15%) and moderate income (9%) rather than the proposal for 18% BMR in large rental developments, with a 6%-6%-6% spread subsidizing households making 110% of AMI. For condos, we support the 27% BMR ratio, and the spread of 15% low and 12% moderate income BMRs. Subsidizing someone at 140% of AMI, as the other proposal allows, might say something about how insane housing costs have become; but as it stands now, it would be robbing from the lower class to achieve it.

We also encourage the Board of Supervisors to include the most aggressive "annual indexing" provision as possible in the inclusionary policy, so that the BMR program continues to grow every year. That growth can primarily go toward middle income needs to further increase

housing opportunities, and again doing so without taking away opportunities from lower income households.

We are especially concerned that a major affordable housing opportunity will be lost in the rezone of the Hub. Rezoning the Hub to give higher heights, and thus hundreds of additional housing units, will give the supervisors the means to pressure developers to provide more units for people who live and work in our city. Maintaining that requirement at 15% is not only consistent with the Prop C measure on Inclusionary Housing adopted by voters last June but it will also be more consistent with the spirit of the Market and Octavia Plan and go much further at ensuring diversity and fairness, and keep working families in our city.

Increasing the low income increment to 15% and 9% for middle income will be more consistent with the spirit of the Market and Octavia Plan. A total of 24% BMR rental and 27% BMR for condos in the Hub will go much further at ensuring diversity and fairness, and keep working families in our city.

HVNA T & P recognizes your and your staff's commitment in addressing the complexities within inclusionary housing Inclusionary Housing legislation with the highest total increment of BMRs and with more emphasis on lower income housing consistent with the current city policy. We urge that you and your colleagues continue to seek ways to secure more middle class housing for the economic health of our city. We would appreciate more fully understanding your point of view.

We look forward to continued dialogue with you and your team. We want to further outline ways HVNA can support solutions to create housing for those most in need.

Sincerely,

Gail Baugh, President, HVNA

Jason Henderson, Chair, HVNA Transportation and Planning Committee,

A handwritten signature in black ink, appearing to be 'JH', with a long horizontal line extending to the right.



April 6, 2017

San Francisco Board of Supervisors

San Francisco Planning Commission

Re Inclusionary Housing Proposals

Ladies and Gentlemen,

We are responding to the presentation by the Staff (the "Staff") of the Planning Commission (the "Commission") of two proposed ordinances (the "Proposals" or a "Proposal") containing different versions of changes to the Planning Code to modify the requirements relating to below market rate housing provided as part of a multifamily market rate development ("inclusionary housing") in San Francisco. One Proposal is sponsored by Supervisors Kim and Peskin (the "Kim-Peskin Proposal") and the other by Supervisors Safai, Breed and Tang (the "Safai-Breed-Tang Proposal"). Currently, required inclusionary housing levels are governed by Proposition C passed by the voters in June, 2016.

The development of the Proposals reflects in part the conclusions of the Final Report dated February 13 2016 [sic] (the "Report") of the Inclusionary Working Group, led by the Office of the Controller, which developed models and analyses of economically feasible levels of inclusionary housing which could be supplied as part of a market rate multifamily housing development.

The Proposals were to be considered by the Commission on April 6, 2017, but that has been put over until April 28. In the hope that in the meantime there will be consideration of changes to the Proposals, the following comments are offered by the Coalition For San Francisco Neighborhoods:

1. THE SAFAI-BREED-TANG PROPOSAL REFLECTS A TECTONIC SHIFT UPWARD IN THE INCOME LEVELS OF ELIGIBLE LPERSONS FOR INCLUSIONARY HOUSING THUS SQUEEZING OUT LESS FORTUNATE CLASSES. THIS BENEFITS DEVELOPERS WHICH CAN CHARGE MORE FOR INCLUSIONARY UNITS, HELPING THEIR PROFIT MARGINS



(Explanatory Note) The Safai-Breed-Tang proposal places much more emphasis on middle income beneficiaries. Because inclusionary rental or sales charges can be higher for these beneficiaries, this helps developers' profit margins. While these beneficiaries are certainly worthy, it will result in the displacement of equally worthy, low and lower income groups who have even greater needs.

Such a major policy change as this is, pitting low and lower means persons against those with higher means, with no significant changes in the amount of inclusionary housing to be produced, should not be undertaken without (1) a much more comprehensive review which extends beyond the Report, which focused primarily on financial issue and mitigating risks for developers, (2) ultimately, a vote of the people.

2. INITIALLY AND FOR SOME TIME TO COME, THE PERCENTAGES OF INCLUSIONARY HOUSING PER PROJECT FOR LARGE DEVELOPMENTS ARE LESS UNDER BOTH PROPOSALS THAN CURRENT LAW AND SHOULD ALLOW FOR EARLIER VOLUNTARY INCREASES. THE SAFAI-BREED-TANG PROPOSAL NEVER REACHES EXISTING LAW REQUIREMENTS.

(Explanatory Note) Both Proposals start below their ultimate maximum required levels of inclusionary housing in a project, for larger developments, and step up in very small annual increments, based on a formula proposed by the Report as a risk hedge for developers. Under the Safai-Breed-Tang Proposal, the time period to reach maximum is 15 years, and it would still not reach current law levels then!! Under Kim-Peskin, the required annual increase increments are somewhat larger and would ultimately provide for inclusionary percentages per project in excess of current law. BOTH PROPOSALS SHOULD PROVIDE FOR PERMISSIBLE VOLUNTARY INCREMENTS AT GREATER THAN THE REQUIRED RATES.

3. BY STATING RANGES OF QUALIFYING INCOME, BOTH PROPOSALS HAVE CAPS AND FLOORS FOR QUALIFYING LEVELS, SO PERSONS WITH INCOMES BELOW THE FLOORS ARE SQUEEZED OUT. CURRENT LAW MERELY PROVIDES FOR INCOME CAPS, NOT FLOORS

(Explanatory Note) Under current law, for smaller developments, (10 to 24 units, the qualifying income level is "not to exceed" 55% or 80% of AMI (for rental or purchase units, respectively). The



two Proposals state ranges with averages, so those below the range don't qualify, and the Safai, Breed-Tang Proposal exacerbates that by significantly raising the ranges as well. See Item 1 above. THE RANGES SHOULD BECOME 'NOT TO EXCEED' PERCENTAGES OF QUALIFYING INCOME SO THAT LOWER LEVELS WOULD QUALIFY AS WELL.

4. QUALIFYING INCOME TESTS ARE BASED UPON TOO ECONOMICALLY DIVERSE GEOGRAPHIC AREAS, THUS SQUEEZING OUT PERSONS AND FAMILIES LIVING IN VERY LOW INCOME NEIGHBORHOOD/REGIONS WHO CANNOT MEET A STATED MEANS TEST.

(Explanatory Note) The Commission agreed, with respect to AHBP, to use a more neighborhood/San Francisco-Centric means test, meaning that, e.g. "55% of AMI" would be calculated on smaller geographic area to eliminate or mitigate the impact of the significant disparities in income levels which can be generally extant in the standard AMI tests. This does not appear to have been done AND MORE OF AN EFFORT SHOULD BE MADE TO ACCOMMODATE THAT.

5. THE REPORT AND THE SAFAI-BREED-TANG PROPOSAL SEEK TO IMPOSE A "FEE OUT" FEE ON BONUS UNITS WHICH ARE RECEIVED UNDER STATE LAW. SINCE THE BONUS UNITS MUST BE BUILT UNITS, THIS VIOLATES STATE LAW

(Explanatory Note) Under the State Density Bonus Law, to qualify for a bonus, the affordable units must be built on the site of the market rate housing on qualifying donated land. The Report and the Safai-Breed-Tang Proposal both say that there should be a "fee out" charge anyway for BUILT UNITS !! California case law (the "Napa Case") allows inclusionary units built under a local law

program to count as affordable units under State Law, if they otherwise qualify. Since they have to be built on site or on donated land, and can't be fee'd out under State Law, and since inclusionary units which are built, are not charged a fee'd out fee under local law, we believe that if litigated, a court would hold that the fee is impermissible, and would view it as a penalty or tax disincentive to use State Law.

Coalition for San Francisco



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6. INCLUSIONARY UNITS WHICH ARE FEE'D OUT SHOULD BE BUILT WHEN THE MAIN PROJECT IS BUILT OR SOON THEREAFTER, AND FUNDS THEREFOR SHOULD NOT BE PLACED IN A FUND TO LANGUISH AS THEIR VALUES DECLINE.

(Explanatory Note) The whole concept of "feeing out" is antithetical to developing as much inclusionary housing as possible, as rapidly as possible. The City needs the housing now which the fee'd out dollars are to provide. With land and construction costs seemingly on an irreversible upward trend, then the worth of a dollar today will decline with the passage of time, and the intended number of inclusionary units may not be able to be built.

So either eliminate feeing out OR hold up the certificate of occupancy on the building in chief until construction is started on the facility to be funded with fee'd out dollars, plus any "topping off" necessary to build the number of inclusionary units originally contemplated.

COALITION FOR SAN FRANCISCO NEIGHBOHOODS

Cc: John Rahiam, AnMarie Rodgers, Jacob Bintliff

Member, Board of Supervisors
District 2



City and County of San Francisco

TOP LU
Clerk LU
Clerk

MARK E. FARRELL

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2017 MAY 18 AM 9:52

DATE: May 18, 2017
TO: Angela Calvillo
Clerk of the Board of Supervisors
FROM: Supervisor Mark Farrell
RE: Land Use and Transportation Committee
COMMITTEE REPORTS

Mark E. Farrell

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, May 23, 2017, as Committee Reports:

170240 Police, Building Codes - Lactation in the Workplace

Ordinance amending the Police Code to require employers to provide employees breaks and a location for lactation and to have a policy regarding lactation in the workplace that specifies a process by which an employee will make a request for accommodation, defines minimum standards for lactation accommodation spaces, requires that newly constructed or renovated buildings designated for certain uses include lactation rooms, and outlines lactation accommodation best practices; amending the Building Code to specify the technical specifications of lactation rooms for new or renovated buildings designated for certain use; making findings, including environmental findings and findings regarding the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.



MARK E. FARRELL

170208 Planning Code - Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

161351 Planning Code - Inclusionary Affordable Housing Fee and Requirements

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, May 22, 2017, at 1:30 p.m.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Monday, May 8, 2017

Time: 1:30 p.m.

Location: Legislative Chamber, Room 250, located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: **File No. 170208.** Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If the legislation passes, new residential projects that submit a complete environmental evaluation application on or after January 12, 2016, shall be subject to revised Affordable Housing fees or provide a percentage of dwelling units either on-site or off-site, and other requirements, as follows:

Affordable Housing Fee equivalent to the applicable off-site percentage of the number of units in the principal project:

- 10 units or more, but less than 25 units: 20%
- 25 units or more: 23% for rental projects or 28% for ownership projects

On-Site Affordable Housing option:

- 10 units or more, but less than 25 units: 12%
- 25 rental units or more: 18%
- 25 ownership units or more: 20%

Off-Site Affordable Housing option:


- 10 units or more, but less than 25 units: 20%
- 25 rental units or more: 23%
- 25 ownership units or more: 28%
- Projects may acquire an existing building consistent with the Small Sites Acquisition and Rehabilitation Program.

The Mayor's Office of Housing and Community Development shall calculate these fees, and the Planning Department shall impose the fees on a dollar per square foot equivalency, based on the total number of gross residential square feet in the project. A 0.5% automatic yearly increase shall be applied beginning on January 1, 2019, continuing for ten years, so long as the increase does not exceed the City's most recent nexus analysis requirements.

Residential projects that submitted completed environmental evaluation applications prior to January 1, 2013, are subject to the temporary requirements in effect on January 12, 2016. Residential projects that submitted completed environmental evaluation applications between January 1, 2013 and January 1, 2016, are subject to temporary on-site requirements.

These fees shall also be imposed on any additional units that are constructed pursuant to the State Density Bonus Law, pursuant to California Government Code, Sections 65915 et seq.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, May 5, 2017.


Angela Calvillo
Clerk of the Board

DATED: April 26, 2017
PUBLISHED: April 28 and May 4, 2017

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Alisa Somera
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SAN FRANCISCO, CA 94102

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE
Ad Description AS - 05.08.17 Land Use - 170208 Fee Ad

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with ny corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

04/28/2017 , 05/04/2017

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an

EXM# 3004848

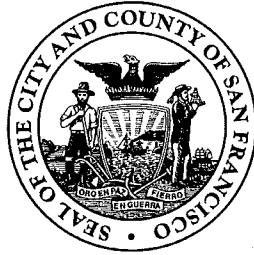
NOTICE OF PUBLIC HEARING
BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO
LAND USE AND TRANSPORTATION COMMITTEE
MONDAY, MAY 8, 2017 - 1:30 PM
CITY HALL, LEGISLATIVE CHAMBER, ROOM 250
1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. 170208. Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. If the legislation passes, new residential projects that submit a complete environmental evaluation application on or after January 12, 2016, shall be subject to revised Affordable Housing fees or provide a percentage of dwelling units either on-site or off-site, and other requirements, as follows: Affordable Housing Fee equivalent to the applicable off-site percentage of the number of units in the principal project: 10 units or more, but less than 25 units: 20%; or 25 units or more: 23% for rental projects or 28% for ownership projects. On-Site Affordable Housing option: 10 units or more, but less than 25 units: 12%; 25 rental units or more: 18%; or 25 ownership units or more: 20%. Off-Site Affordable Housing option: 10 units or more, but less than 25 units: 20%; 25 rental units or more: 23%; or 25 ownership units or more: 28%; and Projects may acquire an existing

building consistent with the Small Sites Acquisition and Rehabilitation Program. The Mayor's Office of Housing and Community Development shall calculate these fees, and the Planning Department shall impose the fees on a dollar per square foot equivalency, based on the total number of gross residential square feet in the project. A 0.5% automatic yearly increase shall be applied beginning on January 1, 2019, continuing for ten years, so long as the increase does not exceed the City's most recent nexus analysis requirements. Residential projects that submitted completed environmental evaluation applications prior to January 1, 2013, are subject to the temporary requirements in effect on January 12, 2016. Residential projects that submitted completed environmental evaluation applications between January 1, 2013 and January 1, 2016, are subject to temporary on-site requirements. These fees shall also be imposed on any additional units that are constructed pursuant to the State Density Bonus Law, pursuant to California Government Code, Sections 65915 et seq. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, May 5, 2017. - Angela Calvillo, Clerk of the Board



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March 7, 2017

File No. 170208

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:


On February 28, 2017, Supervisor Safai introduced the following proposed legislation:

File No. 170208

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

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March 7, 2017

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On February 28, 2017, Supervisor Safai introduced the following legislation:

File No. 170208

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

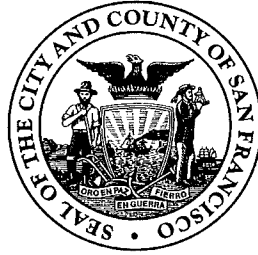
The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

for By:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Lisa Gibson, Acting Environmental Review Officer
AnMarie Rodgers, Senior Policy Advisor
Jeanie Poling, Environmental Planning
Joy Navarrete, Environmental Planning

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MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing and Community Development
Robert Collins, Executive Director, Rent Board
Nadia Sesay, Interim Executive Director, Office of Community Investment and Infrastructure
Tom Hui, Director, Department of Building Inspection
Ben Rosenfield, City Controller, Office of the Controller

FROM: *ll*
fn Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: March 7, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Safai on February 28, 2017:

File No. 170208

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Kate Hartley, Mayor's Office of Housing and Community Development
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Todd Rydstrom, Office of the Controller

Introduction Form

By a Member of the Board of Supervisors or the Mayor

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SAN FRANCISCO

2017 FEB 28 PM 1:16
Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Supervisors Ahsha Safai and London Breed

Subject:

Planning Code -- Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements

The text is listed below or attached:

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only:

170208